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# MORALS IN MODERN BUSINESS

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# MORALS IN MODERN BUSINESS

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ADDRESSES DELIVERED IN THE PAGE LECTURE SERIES, 1908, BEFORE THE SENIOR CLASS OF THE SHEFFIELD SCIENTIFIC SCHOOL, YALE UNIVERSITY

by
Hitchcock, Page & Others
Edward Day Page and others

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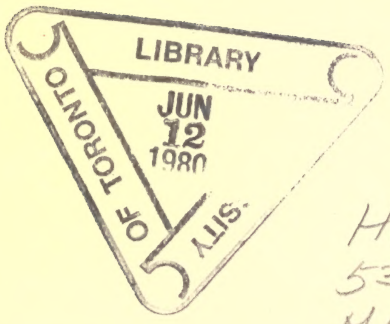


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## PUBLISHERS' NOTE

In presenting this, the first volume of the "Page Lecture Series," it seems fitting to preface the addresses with a brief statement concerning the course inaugurated at the Sheffield Scientific School of Yale University in 1908.

For some time prior to that date the authorities of the Sheffield Scientific School had been considering the possibility of a course of five lectures dealing with the question of right conduct in business matters, to be given to the members of the Senior Class toward the end of their college year. While these addresses were to be in a sense a prescribed study for members of the Senior Class, it was intended that the course should not be restricted to them but should be open to all members of the University who might desire to attend. Through the generosity of Mr. Edward D. Page, of New York City, a graduate of the Sheffield Scientific School in the Class of 1875, this course, now named for the founder, was established in the summer of 1907; and in the spring of 1908 the first lectures in the series were delivered by Messrs. George W. Alger, Henry Holt, A. Barton Hepburn, Edward W. Bemis, and James McKeen, with an introductory address by Mr. Page himself.

Grateful acknowledgment is made to each of these gentlemen for his assistance in the preparation of this

volume, to Director Chittenden of the Sheffield Scientific School, for advice and suggestions, and to Mr. Ripley Hitchcock, of New York City, for the introduction he has contributed. Thanks are also due to the editors of the *Atlantic Monthly* for permission to reprint in the present collection Mr. Henry Holt's address on "Competition."

# INTRODUCTION

THE aim of this book is to afford some candid and practical inquiry into the conduct of modern business on what may be termed the moral side. Is modern business frequently dishonest? If so, why? Is modern business in such a stage of flux and change that its standards are not yet readjusted? If so, may not the air be cleared by a frank attempt to formulate in some measure the standards of the new order?

That there is occasion for taking careful bearings has been made evident repeatedly in the course of the last few years. The great industrial expansion, the constant aggregation of capital into vast corporations, and the complex questions arising in regard to transportation, have been accompanied by new conditions. There has been wrong-doing and suffering, as happens always in any period of sudden commercial development. There have been cases where materialism, the money lust, has violated our inherited principles and teachings. Close upon this unscrupulousness have followed the critics, the so-called "muck-rakers," if you will, who have said in their haste that all men are liars, and after them again followed other extremists who have endeavored to gild our material environment with the sunshine of vague optimism.

These superficial aspects of recent phenomena are familiar to us all. But is it not worth while to go

deeper? Are there not experiences of the past by which we may take our bearings? Without denunciation or palliation, will not an inquiry into modern business conditions lead to the conclusion that the transformation requires rules of guidance which must be formulated in different terms? We are compelled to recognize that acts which were legally right a generation ago are legally wrong to-day. Is it not a first duty for every citizen to consider these changes and to take thought as to his rules of conduct?

These are some of the questions which are answered in this book by men of large experience in various departments of the business world. It is a book by business men dealing with the morals of the new business. It is not an attempt to apply to these practical conditions the teachings of ethics as commonly understood, or of abstract philosophy, or any esoteric lessons. The authors first prepared these chapters for delivery as lectures at the Sheffield Scientific School of Yale University in 1908. No such course apparently had been delivered at any college before, and the keen interest which was shown seemed to prove that the time has come for concrete and dispassionate consideration of our relations to fellow-workers in the business world, to the community and to ourselves. As a contribution toward the happier and more settled conditions which full realization of these relations would effect, these lectures revised for publication in book form are now offered to the public.

RIPLEY HITCHCOCK.

*February*, 1909.

# CONTENTS


| | | PAGE |
|---|---|---|
| INTRODUCTION . . . . . | *Ripley Hitchcock* | vii |
| THE MORALS OF TRADE IN THE MAKING . . . . . | *Edward D. Page* | 1 |
| PRODUCTION . . . . . | *George W. Alger* | 23 |
| COMPETITION . . . . . | *Henry Holt* | 47 |
| CREDIT AND BANKING . . . | *A. Barton Hepburn* | 74 |
| PUBLIC SERVICE . . . . . | *Edward W. Bemis* | 102 |
| CORPORATE AND OTHER TRUSTS | *James McKeen* | 129 |
| SYLLABI OF THE LECTURES . . . . . | | 149–162 |

# THE MORALS OF TRADE IN THE MAKING

BY EDWARD D. PAGE

Success in obtaining correct results from the discussion of any subject, depends

(1) On a clear conception of the questions involved.

(2) On a correct understanding of the terms employed, and

(3) On the freedom of the mind from prejudice; that is to say from preconceived opinions incorrectly formed.

The questions before us are:

(1) Upon what foundation rests the general impression expressed in the innuendo "Commercialism" — as applied to a general lack of integrity in the contact of business and social or political life — that the pursuit of commercial affairs tends to a blunting of the sense of honesty in dealing with our fellow men?

(2) In what degree are the operations of modern business conducted in accordance with or in disregard of moral principle? Are immoral practices common or general in business life, and are they essential to business success?

(3) What are the causes of immoral practices in the conduct of business?

(4) Does there exist an ethical principle which will

serve as the foundation for a coherent body of ethical thought, by which business morals may be guided?

In stating these questions and in their future discussion, a few words are used which will have to be defined:

*Business:* human activity with respect to the exchange of services, commodities or money.

*Morality:* the rule of right conduct commonly accepted by the most reasonable and least selfish part of the community — social sentiment as expressed by its acknowledged leaders.

*Ethics:* the science of right conduct; that is, the body of principle on which morality is based.

*Honesty:* conduct in business transactions in conformity with the conventional standards of duty and obligation set by the social sentiment of any given time or place.

*Honor:* principles of action in conformity with the highest standards of duty and obligation prevalent at any given time and place.

*Law:* a rule of action established by recognized authority to enforce justice and to direct duty.

*Society:* the collective body of persons composing a community.

If we have satisfied ourselves as to the subjects under discussion and as to the meaning of the terms used therein, we may next proceed to a more detailed consideration of the biases or prejudices with which the question is commonly approached.

To judge from the public expression of current opinion

it would appear that business operations generally were conducted with a fine disregard of moral principle, as if business men generally needed the drastic coercion of the Statute Law to compel them from "doing" those with whom they dealt, and even that possibly business successes generally were conditioned upon taking advantage of every opportunity to cheat, deceive, and delude those with whom transactions were conducted.

Sitting by the Club table, in the intimate discourse which follows that certain relaxation of reserve promoted by good dining, I once heard the expression of a noted lawyer that in his judgment the corruption of modern commerce was appalling; that it was the rule for business men to be either cheating on the sly, or devising plans to follow such open dishonesty as could be practiced without incurring the penalties of the Law. "For," said he, "my office is crowded with those who either want me to get them out of the consequences of their misdeeds, or to tell them how far they can go along crooked lines without getting into jail." Later, at the fireside, a careworn physician, in response to an inquiry as to the causes of his attitude of dejection, said, "I'm blue because my work bears in upon me the conviction that a world where not more than one man in ten is even reasonably healthy can never be a happy one."

These opinions are typical instances of what may be termed the professional bias. The second of them involves an obvious fallacy to all minds not concentrated upon problems of disease and death. That we are a

race of almost hopeless invalids is so conclusively contradicted by our dependence upon its contrary in the ordering of our daily lives that it suggests like skepticism with regard to the opinion first expressed as to the moral health of the business world.

We may perhaps ask ourselves a few questions about that condition.

Is our commerce, our finance, so morally rotten; honeycombed with dishonesty and cunning fraud? Does the intending purchaser, whether at wholesale or at retail, expect to be defrauded of his money when he approaches the store at which he is intending to trade? Is his ordinary attitude, after he has found out the nature of the article which he has bought, that of one who will never buy again of that establishment; or of a pleased customer, who is likely to shop again with the seller, and to recommend his wares?

How long would any of our great producers remain in business could he not depend upon a continuous demand for his product by those who felt they had not been deceived in the goods they had previously bought? And how would it be possible for distributing houses to keep on doing business with the same people, for ten, twenty, or may be forty years, unless fair and honorable dealing were so customary that it could be taken for granted? Is it not a matter of common knowledge, founded on common sense, that other things being equal, men will prefer to trade with those who treat them squarely and will avoid those who have cheated them?

Insurance against dishonesty is as common as against any other catastrophe; the companies stake their business upon the high estimate that their risks are 98 per cent honest and the profits of their business show that this is true. Of credits extended by commercial houses the overwhelming majority are paid as a matter of course; the losses by bad debts would be enormous at 3 per cent of the transactions; their common average range is from $\frac{1}{10}$ to $\frac{3}{4}$ of one per cent; and the premiums of the credit insurance companies are based on this experience.

The professional bias is the mistaken notion conceived by one whose absorption in a part of a subject has prevented that knowledge of the whole upon which depends, as Herbert Spencer justly observes, a correct understanding even of the part. While the pathological view may be very important to a just interpretation of any physical or moral fact, nothing but error will result if it be substituted for a knowledge of the normal or physiological conditions involved in the functions of health.

A more widely circulated misconception of mercantile morals is that disseminated by the Press. Modern journalism, in its effort to expand circulation, concerns itself mostly with the exploitation of the exceptional, publishes by preference all deviations from the accepted moral code, and relegates into the obscurity of the uninteresting the humdrum occurrences which as actual experience most definitely shows, constitute nineteen-twentieths or more of life. The average managing

editor realizes that plain history has few readers, while the romance which sheds a high light upon the unusual or unconventional in action or personality makes an immediate appeal to the million. Too often the reader forgets that in the race for circulation the press has in large measure degenerated into a purveyor of fiction by concentrating its attention upon the exceptional too often colored by fancy, and in the large is presenting a picture of life so far misproportioned and misrepresented as to be mostly unreal. Deceptive as this practice must necessarily be to the uneducated, it should not become the basis for the opinion of the educated man, who too often makes use of "newspaper facts" for the exploitation of sensational opinions, which the slightest analysis should show to be false. When college presidents can lend their sanction to the popular impression, thus lightly created, that "Corporations" and "Business" — which terms, if they mean anything, mean all, or the large majority of Corporations, and of business men — are organized for the plunder of the rest of the community,[1] they must of needs forget the obligations of self restraint in utterance and of accuracy of statement which the man of education owes to those to whom he speaks. The flimsiest consideration of the facts involved should be sufficient to halt a trained

[1] "The corporation problem resembles a society of burglars, legally organized to plunder, against whom criminal proceedings result only in an indictment, or a fine, which the plundered themselves must pay." — Interview given by President Woodrow Wilson, *N. Y. Times*, Sunday, November 24, 1907.

mind before the expression of such an opinion, even if it be true as it undoubtedly is, that there are some branches of business in which the standards of honesty leave much to be desired.

A third variety of bias is associated with a popular prejudice against corporations which in many ways is well founded. It arises from four phases of corporate action, each of which has been distinctly anti-social:

(1) Unreasonable and arbitrary practices of the Railroads in dealing with their customers, such as

(*a*) Rebates to favored individuals.

(*b*) Practices such as those described in Norris's "Octopus" which have justly incensed the victims of uncontrolled monopoly.

(*c*) Arbitrary attitude of the Railroads with respect to the service of the communities whose sole means of transportation they control.

(2) The secret corruption of State and Municipal Legislatures and of public officials at some time in their history by nearly every Public Service and Railroad Corporation in the land.

(3) The avoidance of responsibility for wrong doing, by reason of the limitation of pecuniary and penal liability on the part of officers and directors of many corporate enterprises, especially of the more important and impressive in size.

(4) The organization of a few corporate enterprises by professional wrong-doers under the cloak of the limited liability so afforded to perpetrate deliberate fraud.

On the other hand it must be urged that with the present fashion of transforming all kinds of business into corporate form, the guilty among existing corporations form in number but an infinitesimal fraction of the whole; and the indiscriminate censure of all corporations, growing out of the prejudices established by the three forms of bias which have been alluded to above, can in no measure be justified by the facts.

It is far from my desire to deny, extenuate or underestimate the immoral practices which have existed or still exist in commercial life, in corporate practice or in trust management. But proportions must be correctly determined before we can either recognize and study the real evils involved, or, after a just estimation of their prevalence and causes, discuss the immediate effort by which the elements detrimental to moral welfare may be purged from commercial life.

Morality in its essence is the conduct-standard established by the general opinion of the community as to the point at which self-interest should be subordinated to the interest of that society of which the individual forms a part. The activities of the individual express themselves in his conduct, for which the social sentiment therefore is supposed to provide a moral guide. Unlike the Law it does not, in our present state of civilization rest except in small part upon written authority; and in conformity with the growth and increasing complexity of that civilization, the social sentiment upon which morality rests is subject to like growth and change.

At first it is difficult for any one to grasp the thought that Morality, which until a comparatively recent period was supposed to be based upon the Ten Commandments and similar authoritative commands, is by no means fixed in form, but is subject to an evolution corresponding in some measure to the evolution of our race, or of our civilization. Students of History are well aware that the standard of morals varies materially from century to century, and from place to place, "Ask any savage which is worse, to steal some trifling article, the property of his fellow tribesman, or to massacre a family of the neighboring tribe. He will as surely answer the former as we should the latter." [1] In the Homeric literature, the deceitful cunning of Ulysses appears as a virtue of the same rank with the prudence of Nestor, the constancy of Hector, and the gallantry of Achilles.[2] Theft was the only form of dishonesty recognized by the early Roman Law.[3]

In space as well as time is apparent the same condition of unequal evolution of moral standards, and even in the same community the moral ideals of one group of men differ radically with respect to certain acts from those of another. Advertising is as contrary to the ethics of the medical profession as it is approved by the laity, and while scabbing is a gross immorality to the Trades Unionist, the bulk of the social fabric continues

[1] Thompson Seton's "Natural History of the Ten Commandments."

[2] Maine, "Ancient Law," 303.

[3] *Ibid.*

to regard it with indifference. The recognition of moral notions as formed by social sentiment, as subject to change and progress, and as a phase of evolution, is essential to a correct understanding of the facts with which the discussion of Business Ethics has to deal. In the process of evolution the decline in religious belief, the concentration of population in great cities, their connection by cheap and rapid routes of transportation and the extraordinary progress of the last hundred years in manufactures and industry fostered both by invention and by novel financial devices, have combined together not only to disturb men's reverence for the old time authoritative standards of moral practice, heretofore subject only to the influence of the slowly moving economic progress of the preceding fourteen centuries, but to create as the material of moral action a whole new set of social and economic forces developing with breathless rapidity — the changes of a lifetime compressed into the fluctuation of a decade. There indeed you have a series of factors tending to demoralization. An example of unequal evolution in the spheres of economic and moral development, arising at the very epoch in which the old authoritative standards were in process of decay!

In the ethical questions involved in transportation we have begun to see that the business codes of the day before the age of the steam cannot cover the complex partnership of the People and private enterprise as embodied in our railway system — a joint undertaking for which the eminent domain of the State furnishes

the means and in which it permits a monopoly, but built and operated by individual capital and ability. Day before yesterday we see the industrial welfare of the nation in large measure promoted and extended by the very rate concessions which to-day cannot fairly or equitably be permitted to exist. This example is one only of a large class of newly important activities, the exercise of which have been turned into moral problems by the great growth of the volume and complexity of business during recent years — problems whose solution has lagged behind for want of a prompt and definite expression of social judgment. For, in the mad race for riches, busied with the furtherance of its own extraordinary economic development, the community has neglected to carry on, coincidently, the presentation and determination of what duties and what obligations are involved in the conduct arising from that development. This neglect has permitted a margin of business competition under unethical conditions and according to unethical standards; the financial results of which may be seen in many of the great fortunes, the methods of whose acquisition are obviously scandalous. Worse still, our statute law has likewise developed unequally with our economic evolution. It often permits, and not infrequently offers inducement to the violation of the moral principles which are already well established in social consciousness. Our existing laws against combinations; those governing the formation of corporations, the levying of assessments for personal taxes, and the collection of tariff duties — to

mention no others — offer inducements for the violation of the moral law by reason of the unjust economic penalties which fall upon the businesses which obey them to the letter, and tend to "make decent men violators of law against their wills and to put a premium on the behavior of the wilful wrong doer."[1] Couple the confusion produced by this situation with the opposite idea that Law is the only authoritative expression of the social moral sense, and that whatever is lawful is likewise honest, and we come near to the point of view of those wrongdoers who pursue their selfish interests as far as the forms of Law will permit and violate the provisions of any statute which they think is not supported by the public sentiment of the community in which they live. These men are the real anarchists which the social fabric has to fear; their ability and resources give them a power many fold that of the weak and poverty-stricken "Reds." It is the social injustice perpetrated by such oppressors, and the resulting contempt for the Law under whose protection they practice, which provokes the insurgent anarchist to attempt its regulation by force of dynamite and arms.

As the Law stands therefore — and the Law always lags behind and never forestalls the moral consciousness of the community — it is generally impossible to punish these social wrongdoers, these practicing anarchists, by the Law. They can, nevertheless, be punished by public opinion, that sentiment which as Bryce declares, even our legislators seldom dare to disregard. To the

[1] Roosevelt, Message, Dec. 4, 1907.

intelligent formation of that public opinion should be directed the thoughts and energies of those to whom aliberal education has given the primary elements of the power of social leadership.

In the analysis of the mode by which this potential force can be utilized by the man of trained mind some distinctions must be recognized. It may be pointed out that there are three phases of evolution (and one of devolution) through which the social consciousness passes in recognizing the moral quality of business conduct.

First: Social Duties recognized by the few but disregarded by the many, which is something more than conformity to the conventional standards of right action. The principles by which these duties are regulated form an ideal code, "made up of rules which it is safer to disregard than to deny";[1] and the sentiment which supports them is that of *Honor*, which we recognize as a rarer and higher feeling than that of mere honesty.

A second and a lower grade of principles are those which may be grouped together under the term *Honesty;* the many — in fact the bulk of the community — recognize the rules based thereon as expressing the average business conduct which the social consciousness expects and enforces by public opinion.

The third phase of moral evolution begins when the community seeks a more definite and authoritative expression of social sentiment by its crystallization into

[1] Hobhouse, "Morals in Evolution," I, 27.

Law; which will then state the immoral quality of an act and provide for it a definite penalty.

The stage of devolution is reached when conduct formerly found contrary to the social welfare has, by force of changed circumstances, become to be no longer recognized as wrongful; but owing to the unresponsiveness of written law to public opinion, it is still condemned as illegal. The continuance of the legal condemnation after the passing of the sentiment which inspired it, creates a confusion as to the moral intention of Society which is almost as inimical to its welfare as the existence of a crime which the law does not condemn.

In accordance with these distinctions we may classify doubtful acts as

(*a*) Dishonorable, though perhaps not dishonest.

(*b*) Dishonorable and dishonest, though not illegal.

(*c*) Dishonorable, dishonest and illegal, with the addition of another class of conduct which is illegal, though not partaking of any immoral quality, other than the secondary one of inspiring contempt for Law.

Similar to these four phases of subjective moral sentiment, the individual objectively in his attitude toward society instinctively draws a line of demarcation between three more or less clearly defined social strata or classes, toward whom he feels different degrees of intensity of moral obligation.

Most intensely of all he feels a sense of duty toward his family, his kinsmen and his friends — those with

whom he comes most constantly in contact and who are bound to him by ties of mutual service and forbearance.

In a second place to these he puts those with whom he has common interests and common dealings, his social acquaintances, the members of his group, trade or profession, or of his trades union — with whom he is personally acquainted and whose favorable opinion he naturally solicits — the anthropological analogy of the Tribe.

Thirdly, there is the general public or persons separated from him by barriers of non-acquaintance or distance, members of other groups, trades or professions or standing to him in supposed adverse economic class relationship like that of producer and middleman, of employer and employee — the member of another tribe, a Philistine; in law, a Stranger. To most persons this is the relation in which his Government stands to him — something impersonal, remote, almost negligible.

These distinctions I have called instinctive, that is to say, the majority of men are inclined to accept them without reasoning; but by this token they are a survival in culture of primitive distinctions ingrained into our racial habits of thought through æons of human experience under early barbaric and semi-civilized conditions. They result from and testify to the evolution by which the morals of humanity have progressed through primitive culture to civilization.

Now it may be said roughly that the application we tend to make of our three established grades of subjec-

tive moral sentiment to the three objective social classes to whom we owe moral obligation, is as follows:

1st. To the Family group we feel that we owe the sentiment of Honor.

2d. To the Tribe — toward our own social group — we tend to practice the principles of Honesty.

3d. To the Stranger — we satisfy ourselves with what is compelled by the Law.

But in our progressive civilization humanity is continually establishing conditions wherein men become more and more economically dependent upon one another; tending to aggregate themselves into larger and larger communities, either by concentration into city life, or by the connection of communities separated in space but drawn together by a greater ease and rapidity of transportation. These changes newly force upon large groups of people the economic relation of the Tribe, whose social relation still remains that of the Stranger; and brings for a time perplexity and confusion as to what the moral relation is, that is to be finally sanctioned by social sentiment. In fact, during this period of evolution and change the groups, and the individuals of which they are composed are uncertain whether to be guided in their mutual interrelations by the rules of the Law, or of Honesty.

Further, in the progress of our morality, to the standards of Honesty are being added from time to time some particles of the higher ethical notions of duty embodied in the ideals of Honor; and at the same time some portions of the social codes of Honesty heretofore

undigested by the Law are gradually being absorbed into it, defined, and vested with its penal sanctions. In the progress of our social life the widening circles of economic activity in all lines of business are spreading outward and forcing upon us with the public, the stranger, the man-in-the-street, those intimate relations which formerly were confined to the group of our personal acquaintances, our anthropological Tribe. Our butcher lives in Kansas City or Chicago, our tailor in Cincinnati, our baker in Battle Creek and our shoemaker in Brockton or Lynn. Merchandise is being standardized, for without this process the needs of long distance and rapid trading — the handling of large quantities and numerous transactions in the briefest possible space of time — would be impossible.

Equally essential to the production of this result, economizing as it does to the utmost the cost of the distribution of commodities, is the standardization of conduct; so that the methods governing this rapid exchange of commodities, services and money — the business morality involved — may be as reliable as the grades of merchandise with which it deals. What does this mean? It means that a fixed and undeviating standard of commercial ethics has and will have a potent influence in furthering the economical development of business; and that therefore anything that business men can contribute to this end by making their transactions ethically more dependable, will in the long run contribute to their final success.

What is success in business? It is by no means

measured by the amassing of wealth. It is a poor and shabby substitute for success that is based on the acquisition of money at the expense of character. Character, the sum total of a man's fixed sentiments and habitual modes of thought and action, is as much determined by his deeds as it in the end forecasts his conduct.[1] In business, in the obtaining of credit and as an essential to the command of capital, character is often a better asset than dividend paying securities. It is the basis of reputation, by means of which its possessors do big things easily and become acknowledged leaders in their chosen field. It comes nearer being immortal than any part of the tangible qualities that constitute a man, for its memory and the respect due to it live for many years after his money has been forgotten. And it cannot be possessed by those whose thirst for riches leads them to use immoral means to serve their unworthy ends. The man of intelligence and imagination who fails to acquire it in early life is doomed to a disappointed and unsatisfied maturity and old age.

Nor can a career whose pursuit affords no opening for the full development of latent talent and power be called satisfactory or successful. Herein therefore lie the three touchstones of success: — character, developed talents, wealth; no man may congratulate himself as achieving success in life unless he has attained in reasonable proportions all three of these desiderata.

I shall have failed in the foregoing presentation of

[1] George Eliot, "Adam Bede," ch. xxix, 269.

the subject matter of this discussion if I have not been able to draw a picture, (1) of business life as affected by certain causes which largely by reason of the unequal pace of moral and economic development in the last half century have resulted in immoral conduct distinctly anti-social in its tendencies but imperfectly reprobated and punished by public opinion, and by reason of its still more sluggish and uneven evolution, distinctly unpunishable by the Law. But (2) business in the main is not immorally conducted; in fact the tendency to economy and rapidity of trading compel the settling and standardization of the ethical principles underlying its transactions, as it has compelled or is compelling the standardization of the merchandise which is the material of the same. And were the bulk of transactions dishonest, or even suspicious, the opportunity of the dishonest trader would be taken away; for he relies upon general acceptance of a trading moral principle, as reasonably established, for his chance by "practicing a protective mimicry of the good,"[1] to prey upon the unsuspicious public.

The basic idea of Duty, applicable to business as to all other kinds of social conduct embraced within the definition of Morality has been found with singular unanimity[2] by all teachers of mankind in the golden rule, first propounded by Confucius — that each one should treat others as himself. Rational consideration of this principle with respect to any given act or line

[1] Ross, "Sin and Society," p. 59.
[2] Hobhouse, "Morals in Evolution," II, 219.

of conduct will do much to eliminate that degree of selfish interest which we all recognize as anti-social and morally reprehensible. Valuable assistance to clearness of ethical vision may also be obtained from an endeavor to answer the question — what would be the result if every member of my community were to pursue this line of action? If the answer be "anarchy," its immoral aspect will thereby be well defined.

The educated man who to-day goes forth from his alma mater without some recognition of his social responsibilities, of the need of his activity, not alone along the more sordid lines of self support, but in playing the part which his mental training gives him the opportunity to assume as a leader in the wider activities of the social life, does not attain that nobler and higher success in life which is the reasonable goal of an intelligent and enlightened ambition. If he fails to seize this opportunity when it comes before him he neglects to use the most efficient force to which he can possibly subject himself in the building of his own character.

The social effort involved in the furtherance of the moral evolution of the community is not a serious one if generally shared by intelligent men. Progress in ideas — and this is especially true of moral ideas — is both produced and propagated by discussion — in intervals of work, at the club, over the coffee and cigars, in society — both with men and women — in the press, and in the pulpit. Next to personalities there is nothing in which people are really so much interested as in moral questions. Moral ideals therefore spread easily and

with comparative quickness; you never can tell when you talk about them even with a stranger, how much influence they will have upon his mind, or how far afield he will carry them. They need not be expressed abstractly or didactically, for there is a plenty of current specific conduct publicly known to which they may be interestingly applied. Much stress has properly been laid, in the expression of the social sentiment, on public condemnation as a punishment for anti-social acts in esse and a deterrent to immoral acts in posse. It is the misfortune of the puritanical view of life that a similar stress has never been laid upon the importance of *social approbation* of those moral acts by which the community is benefited. To accomplish the best results we must tear down the ancient prejudice that the performance of duty needs no praise; for it disregards that elemental principle of human nature, that the pleasure produced by commendation is a potent factor in the repetition of praiseworthy acts. In business its manifestation would be to develop a feeling which would actually give a higher profit to him who renders a better social service[1] in the production or distribution of his merchandise; and the discrimination between wealth justly and unjustly gained. Beside and beyond these duties which all educated men owe to the unorganized collective body of persons constituting their home community, they owe another and equally important duty to the organized State, in enforcing upon it its

[1] Jenks, "The Modern Standard of Business Honor." Pub. Am. Econ. Assn., 3d ser., VIII, 17.

duty to make the legal conditions surrounding business life such that by reason of their divergence from the moral sentiment of the community, human nature shall not be tempted beyond its strength. Best of all, if we endeavor in our own conduct to set up Honor rather than Law as our standard of duty and in furtherance of the ideal of the brotherhood of man extend its application from the narrow circle of the family or the social group to its furthest public possibilities, we shall in the end make what we do the law, and so raise to a higher level the whole social sentiment and moral standard of our time.

# PRODUCTION

BY GEORGE W. ALGER

When Charles Dickens came to this country in the forties, he found us, judging by "Chuzzlewit" and the "American Notes," a very self-satisfied people. Second only to our indulgence in chewing tobacco, he found our indulgence in boastful expression of our own greatness and our supreme conviction that ours was the greatest country on earth and we, its greatest people. He felt constrained to expose to the pained senses of our grandparents the glaring error in our conceptions of ourselves. If Dickens should rise from his grave to-day and visit us again and once more write his impressions of us, I am sure he would still have for his main theme, the attitude of the American towards himself. But where he found buoyant self-satisfaction before, he would find in the present generation a curious twist in the other direction. We have grown rich and powerful, to be sure, and we are still proud of our development and of the prospects of the future, but with it, thank Heaven, we have greatly developed the capacity for self criticism.

This discontent, which to-day is the prominent part of our self criticism has largely to do with our moral standards. The past few years have been prolific of

distressing scandals, the Post Office, the Insurance revelations, the Beef Trust and the constant succession of exhibitions of municipal corruption from New York to San Francisco. Now, there is something foreign to the American temper about hushing up public scandal. So much has been put into print about our political, financial and business corruption, that many good people have been made somewhat pessimistic — have been led to believe that these conditions are characteristic of American life — that we are degenerating morally — that we are interested mostly in money, in sound money and not in clean money, and in its quantity rather than in its quality or how we get it.

Pessimism has always a knowing air and it usually has some definite superficial fact or other to point to as its justification. But the noticeable thing about these waves of general pessimism is that they usually seem to come a little late. They tend to get strongest when the reason for coming has largely disappeared. If for example half a dozen of the depressing commencement lectures of the last year and the year before, on our moral decrepitude, had been delivered in the days when the ideal of American prosperity seemed to be nothing but material wealth, however come by, and the full dinner pail, these addresses would, in my judgment at least, have been somewhat opportune; but they were not particularly opportune when they were actually given. These academic pessimists remind me of an old lady in my native city who made a specialty of going in and talking about death to convalescents. Somehow

she never seemed to get around to prepare her sick friends for death until after they were really beginning to get well, and she would then discourse on her favorite theme so earnestly that she quite overlooked the actual condition of the patient. I think of her sometimes when I read these pessimistic utterances concerning the present moral tone of American business life. These exposures as I see them are not so much indications of America sick as of America getting well. The corruption we hear so much about is not new. The new thing is the desire to uproot and destroy it.

I have made this introduction because I want to be sure to make perfectly clear the spirit in which I approach my subject by expressing at the outset my own sincere conviction that the professional and business life of America into which you are so soon to enter, has for its essential qualities, not decadence but rather regeneration, in which moral forces have not lost ground but are receiving a sure and constant increase of power.

I have been asked to talk to you about the ethics of production. So far as its human factors are concerned production in a business sense involves three human relations. First, that of the producer to his own employees, by whose labor his wares are made; second, his relation to the trade, with the factors and retailers who handle his goods, and third, his relation with the public who buys those goods.

There is no subject of a social character which is receiving to-day more attention from both the general public and the business world than that of the relation

of employer and employee. Now it is one of the easiest things in the world to lay down in general terms abstract propositions as to their reciprocal duties. Justice demands for instance that the employer should pay his employees fair wages, exact only fair hours of employment, and that the conditions of the employment should be such as to give due protection to the health and safety of the worker. The employee on his part should make by his labor just return for his wages. This far it is plain sailing, or rather it is not sailing at all, for we have not yet really embarked. The moment we leave the realm of abstract morality, the moment we begin to apply ethical principles to a going business, trouble begins. It begins, not because the principles themselves are false or that they become doubtful when tested by use, but because of certain considerations which render their application difficult.

You remember the colloquy between Morrell and Burgess in "Candida," and the retort of the hard old factory man: "But arter all you can't take everything a clergyman says serious, or the world couldn't go on."

What we are interested in here is, I take it, not ideals in the abstract, which would prevent the world going on, but ideals capable of being worked into the processes of the world, ideals in conduct, and to consider from this standpoint some of the problems of industrial justice. We are not interested in an abstract employer in a hypothetical ideal business, but the actual employer in a concrete business world and the practical difficulties in the way of the industrial ideal.

Looked at from one point of view these practical questions do not seem even to exist. That point of view is the one which makes the whole matter of the treatment of the employee by the employer a purely individual one, and the responsibility for which is made to rest wholly with the individual employer. A good many difficulties may be made to disappear by the happy device of not looking at them. We use that method to a very large extent in our ordinary considerations of the employment question. Take a concrete illustration. A very large per cent of our ready-made clothing is made in the slums of the great cities in tenement houses, in ill-ventilated or unventilated rooms by men, women, and very young children who work long hours for almost incredibly small pay. The class of producers who employ these poor people to make up these garments in these places we call sweaters, and the sweater is the stock example of the bad employer. He is the blackest black sheep of the producing world. We call him hard names and no doubt he deserves them all. But if we accuse the sweater of all the inhumanity with which his class is charged, he will answer it all by a very few words, simply expressed, which to him, at least, offer a complete reply to the whole indictment. He will say, "Do you know what the Broadway wholesaler pays me for making coats? Now you say I pay too little to my help. I answer," says the sweater, "if I paid more, if I did not work my people long hours, if I had no small cheap children to work for me, I could not compete for the wholesaler's

trade. I should be put out of business by my competitors who work as I work now, and who would underbid me if I should change the conditions of my work. Shall I commit business suicide to gratify your kind heart?" It is easy for us to tell the sweater to commit business suicide. Such a gratifying demise costs us nothing. But suicide, business or otherwise, answers few problems.

Now you and I have very little use for the man who always cries that he is a victim of circumstances. You remember Johnson's retort to the man who was excusing some rascality by saying "One must live." "I'm not so sure of it," said the old doctor. I am not trying to defend the sweater, nor do I suggest that the frightful competitive struggle in which his business life is lived lessens his individual responsibility. I am simply calling your attention by concrete illustration to one of the great practical difficulties of applying abstract rules of moral conduct to business.

Now this exaggerated illustration from conditions in the so-called sweated trades I have brought up to make you consider what the individual responsibility of the producer is in the face of that situation or other situations similar if less extreme. Competition is the root and basis of business life. In some industries competition is very intense, the margin of profit is very narrow. Where that competition is so intense, the practical difficulty standing in the way of the well-intentioned employer who wants to treat his employees fairly seems almost insuperable. What is to be done? How are

the working conditions to be raised to a plane of decency? Now there are three solutions offered to this problem. One is to reach the conscience of the employer, to make him feel a greater moral responsibility for the welfare of his help, to make him anxious to improve their condition; and, by exhorting him and at times by abusing him, make him clean up his shop, raise wages and shorten hours. I sometimes wish those of us who are interested in this particular method of improving social conditions would use more often the example of the good rather than the bad employer. It is always important to know just what can be done under existing business conditions. The best way to ascertain what can be done is to see what high-class employers are in fact doing and to try and make other employers comply with a demonstrably practical standard. Some time ago, one of the officers of a national organization interested in improving working conditions went to a New Jersey town to examine the glass manufactories there, with particular reference to child labor. She went about at night, found these establishments running full blast, with little children busily engaged, carrying bottles to and fro all night long. One establishment, however, she noticed was dark. The next morning she went back to make sure that it was really closed down and somewhat to her surprise found it in busy operation. The proprietor met her courteously and took her through the plant. There were no children except those obviously above the legal age. The general conditions were good. At the end of her visit she said inquiringly,

"You do not run your plant at night?" "No," he answered. "Do you let your fires go out?" "Yes." "That costs you money, doesn't it?" "Yes." "These other bottle makers say they cannot afford to close at night and that competition compels them to use little children in their work." "Yes," he replied, "but I do not try to make so much money as my friends. I do not like to work at night, nor do my employees, nor do I care to rob the schools to get my help. My business is profitable enough and I am satisfied."

Now I say this was an interesting man, but while I know, as perhaps many of you know about the bad conditions so far as child labor is concerned in the glass manufactories, which are notoriously evil places for children, I cannot give you the name of this good employer who did not try to make so much money and who still "lived" in a business sense under the competition of his rivals. It would be more useful in the campaign against child labor if the facts regarding this man's business were publicly known than that we should have a good part of the shocking details of the employment of children in glass factories. For his business would show what a glass manufacturer *can* do if he chooses, under existing business conditions, and it would cover and meet the plea of economic helplessness so often urged by his fellows. Some time we shall become wise enough to follow this policy, and recognize the tremendous social value of such employers. There is no more useful man in business to-day than the man who establishes high standards and shows that they

can be maintained in actual practice. One distressing thing about this story to me is in one simple fact which I have omitted thus far, namely, this good bottle man was a Frenchman!

Another method of improving industrial conditions is to encourage the workers to combine in trade unions, and gain power by combination so that they can compel an unwilling employer to do the things which otherwise, but for their own insistence, he would have refused. This is good in its way, but after all permanent moral progress can hardly be made with a club. There is no special ethical quality in what a man does solely under compulsion. Another phase of this use of the Labor Union I will consider later. To a very considerable number of people interested in improving business conditions for the worker, these two methods are the only methods for making practical progress. They oppose the third method of improving those conditions, which is to enact law which shall regulate at times the conditions of employment, sanitary and otherwise, and improve the method of conducting work. One objection usually urged to the enactment of law is that such law tends towards what is vaguely described as socialism. Another is that you can't make men good by legislation. These critics point out that English law centuries ago contained statutes under which Justices of the Peace yearly determined the wages which journeymen were to have, prescribed the length and breadth of cloth which should be made or used, and made other similar attempts at regulating industry,

all of which failed. But there is a distinction between these meddlesome regulations contained in the old English law, which were made not to promote the interests of the worker but to hamper him in his social progress, to keep him where the higher classes thought he belonged; and legislation which to-day endeavors in sundry instances to mitigate the hardships of over competitive industry lest the competition should oppress the lives of countless thousands to make trade profits. The modern theory for this legislation has been so well expressed by Woodrow Wilson, that I quote from his book, "The State," the following:

"There are some things outside the field of natural monopolies in which individual action cannot secure equalization of conditions of competition, and in these also, as in the regulation of monopolies, the practice of government (of our own as well as of others) has been increasingly on the side of government regulation. By forbidding child labor, by supervising the sanitary conditions of factories, by limiting the employment of women in occupations hurtful to their health, by instituting official tests of the purity or quality of goods sold, by limiting hours of labor in certain trades, by a hundred and one limitations of the power of unscrupulous or heartless men to outdo the scrupulous and merciful in trade or industry, government has assisted equity. Those who would act in moderation and good conscience where moderation and good conscience to be indulged require an increased outlay of money, in better ventilated buildings, in greater care as to the quality

of goods, etc., cannot act upon their principles so long as grinding conditions for labor or more unscrupulous use of the opportunities of trade secure to the unconscientious an unquestionable, and sometimes even a permanent advantage; they have only the choice of denying their consciences or retiring from business. In scores of such cases government has intervened and will intervene by way not of interference, by way rather of making competition equal between those who would rightly conduct enterprise and those who basely conduct it. It is in this way that society protects itself against permanent injury and deterioration and secures healthful equality of opportunity for self-development."

Organized society ought to be on the side of our friend the bottle man. That he was able to live in competition with his child exploiting rivals was entirely to his credit, not at all to ours. New Jersey still thinks it proper that children of fourteen should work all night long in the glass factories.

Now I venture to say that comparatively little of this type of legislation would be obtained to-day but for the acquiescence and at times the active assistance of enlightened employers. The improvement in working conditions which has been made in the last quarter of a century has been great. We should not be discouraged. We complain of the conditions of child labor in the South, we complain of the sweated trades in our cities, and when we fail to consider the subject historically or on broad lines we find many of these pitiful stories of exploitation of young life in these

industries and in the coal mines, exceedingly disheartening and distressing. But compare the woman working in the slums in the long hours of the sweat shop with the conditions in England in the first and second quarter of the nineteenth century, with the woman in the mines crawling on her hands and knees with a rope tied around her waist dragging coal in crude buckets in narrow tunnels in which she could not possibly stand upright, working in dirt and mud, living in degradation and filth in the mine itself. Compare the breaker boy picking coal in Pennsylvania with the chimney sweep of the first quarter of the nineteenth century, struggling up and down blackened flues, through which the body could scarcely pass, often killed by the smoke or burned by the fire of the stove below, the chimney sweep whom Sydney Smith describes in his essay, apologizing ironically for an interest which in his day was so unusual, in "the dirty tears of the poor." In 1847 when the English factory act of that year was up for debate in the House of Commons, one of the most strenuous opponents to the limiting of hours of factory employees was that staunch friend of America, John Bright, one of the most high-minded men who ever sat in the House of Commons. Here is part of the speech which he made in 1847 on the proposed factory act.

"There is one consideration which the House ought to bear in mind with respect to the employment of women in factories. The assertion was that their labor in factories was extremely hard and long continued, but how did it happen that women were found in factories

at all? *The very fact that they were there in large numbers was conclusive evidence that their labor in factories was not hard.*"

Again he says: "Did the Honorable member from Dorsetshire forget that these children did not work more than six hours a day *until they were thirteen years old?* By interfering with the right to exert themselves, you are violating one of the greatest privileges and dearest rights of these people."

I quote this because I think it illustrates the change in the attitude of our time towards this subject. Imagine, if you will, a speaker of national prominence, either in our country or Great Britain, giving utterance to similar sentiment to-day. The growth of the sense of pity has been one of the most remarkable features of our development in the last half century. This combination of ignorance and lack of sympathy in Bright's speech jars upon us. It belongs to a less humane era than ours.

I am not advocating any diminution of the individual responsibility of the employer. What I am calling to your attention is the increasing acceptance of the principle of social responsibility to supplement it — a responsibility recognized and expressed in laws which limit the illegitimate advantages which the unscrupulous employer otherwise has over his more humane competitors, through his very willingness, without such restrictions, to oppress and exploit his employees. Considering the lack of adequate acceptance as yet of this social responsibility (for it is fairly new doctrine

with us) I think the general standard of treatment of employees in our industrial establishments is rather higher than might be expected. We have, for example, no laws such as exist in England, Germany and France concerning industrial accidents. In England as Mr. Asquith so pithily expressed it "The blood of the workman is part of the cost of the product;" that is, the law assumes that accidents are an inevitable part of the very workings of a producing business, and should for that reason be recognized as such and paid for by being made part of the cost of the goods themselves, just as rent, insurance, machinery, etc., is added to that cost. With us, however, that principle, one which President Roosevelt has advocated recently in two messages, is not recognized and all but an insignificant part of the burden of industrial accidents falls solely so far as the law is concerned upon the injured employee. Notwithstanding this, many American employers, particularly in large establishments, are voluntarily assuming for themselves responsibility for these accidents, paying wages during disability, providing medical attendance and making a general compensation for them. The tendency to do this, I think, increases. Most of the great railroad companies contribute to railway relief associations created for the purpose of caring for injured employees hurt in the service. The United States Steel Company has a very elaborate system of this kind, maintaining a large hospital and dispensing thousands of dollars on the accidents which are inevitable in its huge plants. I know of a number of large companies in

New York who do the same thing. Now an employer who does these things has of course to compete in the market with the employer who does not. The good employer has to meet the bad employer's price list; he has to carry the handicap which the expense of the accidents puts upon him and still hold his own in competition with the others. The fact that an increasing number of employers are thus making laws for themselves which the State has not imposed upon their competitors is at once encouraging and inspiring.

Those who complain that the ethical standard of treatment of employees by employers is below what it should be should bear in mind this handicap. We are still strongly individualistic in the old sense of the term in our notions of law. We have still a theory of liberty which guarantees to the worker individual rather than industrial freedom. We guarantee the adult against interferences with the number of hours he can work, instead of limiting those hours where fierce competition tends to make them too long. We guarantee him the right to work, exposed to unnecessarily dangerous machinery, and our law assumes because he works there, meeting those dangers, that being a free man he has accepted or assumed the risk of being maimed or killed, it being part of his liberty to work in danger rather than in safety. It guarantees him the right to buy his supplies at the company stores where the supplies are often sold far above market rate at enormous profits to the company maintaining them. It is a part of his liberty to purchase his goods there rather than

to be protected against extortion by positive law. We guarantee him this specious liberty because we still assume as a basis for industrial life the existence of a theory which is often entirely contrary to the plainest facts of common knowledge; that is, we assume the existence of a condition of individual equality under which no constraints through his necessities can be too burdensome to be borne by the worker.

The continuance of this theory, our failure to recognize its necessary limitations, amounts to an insistence upon industrial warfare rather than industrial peace. As I have said a few moments ago there are those who believe that the worker's social advancement should be forwarded by the Labor Union, not by the law. If the employee is to have only those industrial rights which he can get by combination with his fellows, if his union must give the main protection for his life and happiness, there is bound to occur a certain diversion of loyalty from the State to the Labor Union. We cannot afford in a democratic country like ours, where everybody has a vote, to alienate the worker from the State by overstrengthening his loyalty to his Union. I am reminded of this by an incident which occurred on the east side in New York a few years ago, when a young reformer sought to lecture an east side Hebrew baker for having sold his vote at election. He reminded him of the duty he owed as a citizen to the State to cast an unbought ballot. The man replied "I got $3.50 for my vote. You show me where the State has ever been worth $3.50 to me and I will never sell my vote again; but you can't

do it!" This incident occurred shortly after the United States Supreme Court had decided that a law limiting the hours of labor in bake-shops, many of them unspeakable underground ovens, was unconstitutional as depriving those workers of "liberty" without "due process of law." It might therefore be assumed that the baker has considered the value of that liberty when he sold his vote, and has concluded that it was of comparatively less value than the bribe he had accepted.

Considering now the relation of the producer to his retailer and the public I realize the impossibility of making any safe generalizations. There are those who consider that trickery in business is on the increase, that fraud and adulteration in goods has become a general practice, that the habit of paying special commissions to buyers and purchasing agents which are nothing less than bribes for the placing of goods with retailers, increases. The basis for this opinion must be found largely in the fact that we are enacting laws to cut out the trickster, to punish the man who steals his rival's trademarks and who is guilty of adulteration and substitution. Our national pure food law has done much to bring out information regarding these dishonest devices of unscrupulous manufacturers and dealers of foodstuffs. But pure food laws are not new. It is the enforcement of them which is new. We are putting the patent medicine where it belongs. Some of the things we have learned about these medicines make rather lurid reading, but bear in mind this, that the facts we have found out about them have come out

in a compaign to stop them. The value of the beef trust investigation did not stop with the meat industry. The number of big business establishments whose owners cleaned them up carefully for fear that some similar exposé might come to them is much greater than the public realizes.

We are just beginning to take measures to stop one disheartening form of business competition, that is, the grafting commission. In business I sometimes think that to-day everybody in business wants a "commission" he is not entitled to on something. In the fight for trade even large and prosperous houses have adopted methods which cannot be fairly distinguished except for the lack of bloodshed and physical risk from the methods of the burglar. The moral difference is inappreciable between the burglar who enters a man's house by having an inside accomplice who opens a door or a window and the producer who gets into the same man's business establishment down-town by bribing his buyer or purchasing agent to purchase goods. Now we must admit that in recent years there has been a decided increase in the number of so-called commissions of the illegitimate kind offered to or demanded by all sorts of employees, purchasing agents, buyers and the like in business establishments. It is a great evil. It is not peculiar to producing business. It permeates the whole of our commercial and financial life. Personally I am inclined to trace the increase in business practices of this kind to the tremendous and practically unregulated development of what may be described as the fiduciary prin-

ciple in our modern business life. The corporation as we have it to-day in America is doing the greater part of our business. Men are employed in corporations practically as trustees for the stockholders. An impersonal employer consisting sometimes of thousands of individuals scattered broadcast over the land is substituted for the old definite personal employer near at hand who watched the processes of the business. Our corporation laws have thus far been exceedingly loose. Many of them afford extraordinary and immoral protection to promoters and organizers in making large and highly questionable profits at the expense of the investors who subsequently put the actual capital into the Company by buying its stocks and bonds. The extraordinary temptations afforded by these and other opportunities given to men in control of corporations has had its natural result. There has grown up a class of misnamed financiers who taking advantage of these loose laws have made fortunes through essentially dishonest but not yet criminal practices. As it becomes generally known by the subordinates in these corporations that fortunes are being made in this way by their superiors a strong temptation is created in the rank and file to follow their example. The railroad purchasing agent for example, who sees the officers and directors above him making profits through stock and bond deals, through construction contracts made with themselves through dummies and the like, has a strong temptation to follow the example of his superiors. The effect of these examples is not limited to railroad or corporate

business, but is reflected throughout the whole range of commercial life. The buyer must have a commission for treachery to his employer; the clerk must have his graft, and so on up and down the line. The worst of it is that this kind of business has gone on for so long that it has become a sort of a custom. The drastic methods which are being employed are needed to root it out. Public opinion must be still further aroused against this prevalent form of dishonor, this growth of treachery. We are all of us responsible for the lack of an active public conscience on this matter. We must quicken the individual conscience. We must make commercial bribery and corporate breach of trust odious through public disapproval. We must have law which will help us, and we must enforce that law. In New York a statute was passed two years ago on this subject. The Supreme Court speaking of it in a recent decision says "The corrupt practice of secretly offering bribes to servants, agents and employees to induce them to place contracts for their masters or employers had spread to such an alarming extent in this State that its viciousness and dishonest and demoralizing tendencies attracted the attention of the Legislature and led it to declare it to be a misdemeanor to give or receive such a bribe." This law is good in its way and the enforcement of it will produce good results. But after all what we really need is law adequate to reach not the small fry but the great offenders whose success and example cause others to offend, college endowing, church building men whose greatest public service would be a term in jail. We

college men stand disgraced by what men of our own class do with their education. We cannot hope to make law which shall make such peculation impossible, which shall surely punish it in all cases. Social ostracism is a better weapon. It is our fault that we do not use it. You remember Emerson says "Culture corrects the theory of Success." The test of the value of University training for the life of our day is right there. What does it contribute towards the higher ideal of success? There is no curse to a country like the increase of intellect without character. The vital problem in America to-day is the definition of success. No man who reads or thinks can doubt the growing strength of the moral forces which seek to define that word, so that it shall mean *only* something to which an honorable man can with good conscience aspire.

There is no reason for losing courage or getting cynical. There are many reasons for expecting better things. As we get older as a people, business tends to get a certain stability which it could not have in our restless youth. In the new community the man who keeps a grocery to-day may start a bank to-morrow. He is looking for the main chance. He is not sure whether he will stay in the place or in the business. He looks to the immediate profit and takes short views of the business itself. He is looking more for quick money to be made out of that business than for the good name of the business itself. As we settle down all this rather tends to change. The man in a particular business expects to stay in it and is more inclined to establish

permanent relations with the business itself. The thing which gets more important as a business asset as we grow older is the good name of the house.

There are still thousands of producers to be sure who rely overmuch on the great American idea of advertising more than on the quality of their goods. We know more about how to advertise than any country in the world. It has its great value though we undoubtedly overdo it and overlook its necessary limitations. Advertising at best is a sort of industrial fertilizer, and the best of fertilizers is no substitute for soil. A name may become widely known by advertising, it can become *well* known only by the goods themselves and the methods by which they are sold. The permanent good will of the house which Lord Eldon defined as the prospect that the old customer will return, is and must be based on the character of the house and not on its advertising.

Last summer in London, a friend of mine on his way home one day saw an old Sheffield teapot in a shop window. He took a look at it, fancied it, and told the proprietor to send to his house for another teapot which he had but did not like, and make such allowance on it as was proper and send up the new teapot with a bill for the difference. Of course he did not know what allowance would be made on the teapot which he had, and I asked him if he was not taking a risk in doing business in this way. "Well," he said, "this is one of these old London shops. They have been on that spot for a hundred and fifty years and they have a repu-

tation which is of more importance to them than an extra profit on this particular transaction. They expect to be on that spot for a hundred and fifty years more and they expect to see me again."

Now I think we can find this same spirit and desire for the name of the house growing with us. The producer of course has to be influenced by the spirit of the retailer, and the largest and most substantial retail houses have, with few exceptions, this motto, "Make a customer rather than a sale." I am told that in the largest retail house in this country, the second in the world, the surest road to dismissal is the slightest misrepresentation of goods.

We are in the business world losing that discreditable admiration for "smartness" — that cheap combination of shrewdness and guile which in years past we so highly esteemed. We are losing our regard for it because as we take longer views of business, as we consider it more as a permanent occupation rather than a temporary and changing condition, the cheap shrewdness of commercial trickery proves itself a failure. Solider qualities are to-day needed for substantial business success. In the professions something more than money is essential to professional eminence. There are rich shysters and rich quacks, but we do not commonly call them successful. We withhold the word, because success in the profession implies observance of the set standards of professional conduct. In the same way standards are being set in the commercial world, indirectly perhaps and often almost unconsciously through trade

guilds, merchants' associations, credit associations and the more frequent meeting of merchants for the exchange of views. A business house has to-day a much more definite relation to the trade than formerly. Just as the rich quack or the rich shyster lacks a subtle something which makes success, something which robs him of joy in his work, so the merchant or the producer who merely makes money, loses and what is more *feels* that he loses something essential when his practices have got him a bad name in the trade. How much oftener I hear used phrases which mean moral standards in the business world, phrases cast off carelessly in conversation on business topics — so and so, solid old house, high class concern; so and so, big house but a bad name in the trade. These simple phrases as merchants use them mean much, for they indicate the development of commercial standards of success.

We are often discouraged, no doubt. We see things and we read things which seen too closely make us lose that perspective needed for just conclusions. But after all as our vision clears, as we regain that perspective we can but see, surely and not slowly building under our eyes, on solider foundations, the moral framework of American business, building on principles which recognize character as the great basis of credit and an approximation to the Golden Rule as an essential part of the name of the house.

# COMPETITION

BY HENRY HOLT

THE public questions now receiving most attention in America — those of the labor trusts and the capital trusts — are at bottom questions of competition.

The topic is of peculiar importance to us: for it is universally admitted that competition, in both making money and spending it, is fiercer here than elsewhere. Our average man, and perhaps still more our average woman, wants to outdo her neighbor in clothes, housing, equipage, entertainment — everything that money can be wasted on; and the competition to make all that money is as fierce as the competition to spend it. This is largely because we are, as the *London Nation* justly calls us, "inordinately free from the conventions, restraints, distractions, and hypocrisies of the older civilizations."

For comparison we need glance at English conditions alone: those in Europe generally are enough like them.

When an Englishman gets comfortably rich, he is apt to think of a place in the country, and a local magistracy, and a seat in Parliament; but in America wealth is seldom cared for as giving an opportunity to serve the community or to gain political honors.

Rank, too, — not merely the title that a rich man may hope to gain, but rank derived through ancestry and embedded in history and the system of things, — is a constant reminder that wealth is not for him the highest earthly good. The aristocratic conditions also carry much tradition and habit of culture and refinement, and, it does not seem fanciful to believe, thus afford the main attraction that keeps relatively so many more Englishmen than Americans away from wealth-seeking, and in pursuit of the things of the spirit.

The English church, too, has a great influence in this direction, not only because its endowments attract men from competitive pursuits, but also because of the leisure it gives for other pursuits.

The American attaches little honor to political position, because our democracy so frequently — is it too much to say so generally? — gives such position to men with small claim to honor; we have no established church; and though we have a real aristocracy, it is only in a derived sense: for it does not rule, and the general public knows nothing about it: the public knows only our sham aristocracy of wealth.

True, our unexampled diffusion of education fits more men here than elsewhere to enter into the competition above manual labor; but high ambition is the infirmity of only noble souls; not one man in a thousand cares for the triumphs of art, or letters, or politics, or even of war. Yet every man is a snob, and there is no American country paper now without its social column — even out in California and Oregon the papers copy the so-called

society news from the New York papers; and in them our American democrat sees almost entirely the names of people he has heard of as rich, seldom the name of anybody he has heard of as anything else.

In short, wealth and its results are the only good yet conspicuous on the average American horizon. Hence our utterly unexampled rage of competition for it. The American view of the subject was well illustrated by the wife of one of the great captains of industry, who lately said, "My husband hesitated between taking his present position and going to the Senate. If he had gone to the Senate, it would have wrecked his career."

Now, in this fierce competition, the sentiments regarding it are paradoxical to a degree that is hardly short of amusing. Nearly everybody is half the time crying out against competition, and the other half demanding it. Workingmen try to suppress it in labor, and to enforce it in commerce; on the other hand, the leaders of the industrial world are trying to secure it in labor, and to get rid of it in commerce; while the leaders of the regulative or political world are trying heartily to maintain it in commerce, and are comparatively indifferent to it in labor.

Yet there is a consistency prevading all these seemingly paradoxical conditions: each man tries to get rid of competition in what he sells, and secure it in what he buys. The workingman sells labor, and wants no competition in it: so he forms his labor trust, and tolerates all the other labor trusts. But he buys com-

modities, and wants all possible competition in them: so he attacks the capitalist trusts. The captain of industry buys labor: so he wants all possible competition in it, and therefore disapproves the labor trusts. But he sells commodities, and therefore wants no competition in them: so he forms his own trust, and tolerates the other capitalists trusts. The legislator, administrator, jurist, sells neither labor nor commodities, and buys both: so he favors competition in both, but tempers his advocacy of it in labor, by a tenderness for the labor vote.

But while the statesman, so far as he is a patriot, is above competition, so far as he is a politician he knows it in perhaps its widest and intensest form, and against it makes his political trusts: the great national parties have many features in common with the trusts — especially the Republican party in relation to the tariff; and though the state and county organizations do not generally control plunder enough to justify close trust organization, the city political gangs do, and generally are trusts, Tammany being one of the best organized trusts in the world.

Even the professional classes are not without organization against competition. The musicians' trusts are as selfish, and apparently as foolish, as the hod-carriers' trusts; and even the bar associations and the medical societies, while their real object is the intellectual and ethical advance of their professions, cannot entirely escape some incidental part in the virtually universal defenses against competition — cannot escape acting in some respects as trusts.

Outside of all these classes is the large one of exchangers of commodities, who generally deal in too great a variety of articles to be tempted into trusts of their own. Yet they are all interested in transportation, and therefore naturally object to railroad trusts and teamsters' trusts. To other trusts they are comparatively indifferent, but as individuals they compete as actively as anybody.

As competition is attempted everywhere, it must have its merits; but as it is also everywhere guarded against, it must have its evils, and so distinct are these evils that Mr. S. A. Reeve, the author of the only book on its general aspects which I know of, apparently thinks that to them are to be attributed most of the sufferings that civilized humanity endures. With Henry George and Edward Bellamy, he belongs to a school — or section outside of the schools — which I am never sure that I understand, or that it does; but if I understand him, he holds that competition does not naturally inhere in production, but is bred solely by exchange and other activities not directly productive; and as a member of the noble army of panacea-makers, he offers, as his, the abolition of merchandizing, banking, and many other activities. But just how his panacea is to be administered, he shows no more clearly than do the other inventors of schemes for the millennium.

Competition is certainly not an invention of the devil, unless the whole order of nature is the invention of the

devil: all educated people know that competition was ingrained in nature long before there was merchandizing, or manufacturing, or individual tinkering, or savage hunting and fishing, or savages, or beasts, or birds, or fishes, or gastropods, or amœbas. The very plants, when probably there were no living things but plants, competed fiercely, and they compete still, for light and heat and moisture. To-day they are even competing for territory, with streams and ponds, and actually filling them up and obliterating them. They compete with men for the possession of the tropic zone, and have often beaten them; and I know a case within a dozen miles of Chicago where they competed with an ice company for the possession of a stream, and forced it to use a little steamer with a sort of mowing machine attached. They limited the area of the company's activities, and, for all I know, drove it off altogether, though now a mightier competitor than either — the steel corporation — has taken possession of the territory.

When animal life began, the very amœbas, the lucky ones and lively ones and wise ones, floated into the best places, and kept the unlucky ones and lazy ones and stupid ones out. When tadpoles and fish were evolved, there began a mighty gobbling up of the weak by the strong; later, reptiles — big lizards with wings, and birds with teeth — kept up the game, and made it livelier, perhaps, than ever before or since, even down to the days of Standard Oil. Some time along there, began the most interesting of all competitions, — the one out of which has been evolved all that men most care for,

and perhaps all that is most worth their caring for, — the competition because of sex. In the struggle of brutes for mates, it was often competition in mere force; but there was also higher competition, in the glow-worm's light, and the bird's song and plumage. When man was evolved, it grew higher and higher, until the competition of love became subject for art, and now does more than anything else to fill the opera houses and picture galleries, and fiction and poetry, and the very souls of the world. And not only does art find in competition its mightiest theme, but art itself is a field of competition and struggle against competition, from rival prima donnas down to the musical unions already cited.

There is nothing, from the deepest mine to the tallest church, — or even the tallest skyscraper, — from the dollars a man pays his valet to the devotion he pays his lady-love, that is not informed through and through by competition. One is often tempted to regard it as the motive power of the world. But it is not: it is only an incident of the motive powers — often an exaggerated and destructive one, often not rising above the dignity of a foolish one.

Nevertheless, with the evolution of intelligence, there has appeared a new set of factors: sympathy, mercy, justice, have begun to restrain and narrow competition, to shape popular opinion, and even to express themselves in law. This new stage of the matter to-day absorbs a wide share of men's interests and even of their enthu-

siasms; and these, like all new enthusiasms, reach many extremes — of which, later.

With competition everywhere else, the idea of wiping it out of industry must, at best, be a counsel of perfection, and at worst the idea of making industry cease. Rarely, if at all, can there be an effort which is to be paid for, that does not tend to compete with every other effort which is to be paid for. Any man who heaves coal competes with every other man who heaves coal, and moreover he tends to lower the wages in coal-heaving, — so that coal-heavers will tend to leave that profession and compete in others.

These tendencies are not always realized in practice, because the individual effort is too small to overcome inertia and friction, or even to be measured by our currency and other instruments. But when such efforts "happen" to accumulate in any one direction, the effect of the aggregate is sometimes important.

As a rule, the only way to get rid of competition is, as already intimated, to get rid of work. Does not the most beneficent of inventions inevitably compete with all connected vested interests? Can the merchant who sells the best goods at the lowest prices continue without competing with all others, and getting the biggest business? Do not the men in the most unselfish pursuits inevitably compete for the best places in them? Does not the most self-sacrificing physician compete for the best practice? Does not even the most self-sacrificing clergyman compete for the best congrega-

tion? Neither may have the end in view, but if he puts forth the best in him, is not the end inevitably forced upon him?

So unescapable is competition, that we find it cropping up in spite of the best efforts to suppress it. For instance: it cropped out in spite of the opinion of the very able and philanthropic chairman of the United States Steel Corporation, when he became impressed with the idea that steady prices would be a good thing; and in spite of the fact that in this idea he was correct — as correct, for instance, as anybody who thinks that a clear complexion is a good thing. But circumstances are frequent where a clear complexion cannot be had, and where efforts to suppress eruption must end in disaster. So in the economic world, the unevenness in men's judgments — their making too much of one commodity and too little of another — renders steadiness of price impossible, and even the fixing of a normal price impossible except through competition.

The only rational price (if the versed reader will be patient with a little A B C) is that where the demand will just absorb the supply; and this price will be found only by buyers competing for product when demand is good, and by sellers competing for custom when demand is slack. This of course makes high prices in good times, and low prices in bad times; the only way to get rid of high prices and low prices is to get rid of good times and bad times; the only way to get rid of good times and bad times is to get rid of crazes and panics; and the only

way to get rid of crazes and panics is to get rid of intemperance in both hope and fear.

But temperance is as remarkable by its absence from the community in general as from sundry schools of philanthropists; nothing is more characteristic of that virtue than the ability to wait, and nothing is more characteristic of the philanthropists than to try to go faster than natural law. In 1897, when competition began bubbling to raise the safety-valve of prices, the benevolent Steel Corporation smilingly seated itself upon the valve, and the competition had to break out somewhere else. Among other evil consequences, the company got many more orders at the prevailing prices than it could fill. If they had raised prices, and so lowered the demand to equal the supply, the customers least in need, or least able profitably to use steel, would have dropped out, and the neediest and ablest would have been supplied; the most important demands would have been satisfied, and nobody would have felt a right to complain. Instead of this, each order was filled in part, the most important and necessary enterprises were left unfinished along with the least important and the mistaken ones; nobody was satisfied; complaints were loud; and some of the railroad companies met to devise their own rail-factories.

But in thus suppressing the natural and salutary effects of competition, the Steel Corporation itself entered into competition — and an injurious and unnatural competition — with the weaker companies; for, as it would not raise prices, the weaker companies

could not avail themselves of the good times to strengthen themselves against bad times, and against the natural tendency of any great competitor to gobble up little competitors in bad times. That such was the deliberate intention of the Steel Corporation, however, I do not believe, for I have faith in the philanthropic intentions of its chairman.

But the story is not ended: later in that year, when the bad times came, in his desire to keep prices even, he exercised his wonderful powers of persuasion to prevent the other manufacturers from going into the natural competition of lowering prices, and so the steel industries were kept idle or partly idle for many months, until they could bear the strain no longer, and the steel company itself had to lower prices, right on top of a declaration, the last of many, that it was not going to.

This is the most recent, and perhaps the most remarkable, of the great illustrations of the utter impossiblity, as men are now constituted and industries now organized, of avoiding competition.

Yet, as already intimated, it is plainly impossible that a feature so ingrained in nature and human nature should be wholly bad. Now, wherein is it good, and wherein is it bad? Like everything else — food, wine, money, even such ethereal things as literature, art, or love, or religion itself — it is good within bounds, and bad in excess.

Where are the bounds? As in everything else, at waste — waste of strength, character, time, or resources.

Of course the problem of what is waste and what reasonable expenditure, is a difficult one, but that does not cancel the duty of solving it.

Everybody who reads these words knows that, within bounds, competition tends (if union leaders, or "wealthy malefactors," or philanthropists, will let it) to keep prices reasonable — where, as already said, they preserve the equation of supply and demand; and to keep quality good, and supply abundant and accessible. Everybody knows, too, that in advertising, competition spreads a good deal of useful intelligence, though mixed with a good deal that is superfluous and even false; and that in drumming, it is a great convenience and saving to dealers generally, and keeps the country hotels and railroad accommodations a great deal better than they otherwise would be.

A benefit not as obvious as those, is its elimination of the unfit from industry. There are always hanging on to the outskirts of business, a lot of incapable men who are pestering and impeding the rest of the world with poor goods, poor service, unfulfilled engagements, bankruptcies, and prices broken by forced sales. The elimination of such people, and confining business to the more capable, is a good service to the community. And it is even a good service to the eliminated men; for they are much better off under the guidance of the capable than in enduring the responsibilities, anxieties, and privations inseparable from attempting the discharge of duties beyond them. Competition, then, so far as it regulates prices, increases products and

services, and eliminates inefficiency, is an unmixed good.

And here we approach the other side. The competition which drives out the incapable is a very different matter from the competition which drives out the capable. Effective competition of course destroys competition elsewhere, and so far as that is done by increasing goods and services, the good produced exceeds the good destroyed, and the world is still the gainer. But when the destruction through competition is an end in itself — when one man, without improving product or service, sacrifices values and efforts merely to destroy another man's competition, he wastes good for the sake of destroying still more good.

These facts are obscured because such competition may bring benefit — though probably only a specious benefit — to the aggressor; but it can at best bring the benefit only at the cost of his victims and the public, and at the sacrifice, in the aggressor himself, of that for which no money can compensate: for there is sure to be a moral waste. Legitimate competition must drive many men out of business or into consolidation with gigantic rivals. But such cases are apt to breed a hardness that, as I know very directly, once led a successful competitor to remark of an unsuccessful one: "Oh, he was easy game!"

To continue with the unfavorable side: ruinous competition in prices still exists, though hardly to the extreme of fifty or sixty years ago, when frequently

opposing stage lines carried their passengers free, and steamboats sometimes not only carried them free, but even threw in meals. We do not often hear of anything like that now, though in my own trade I occasionally hear rumors of school-books given away, and ruinous prices paid prominent authors; and perhaps any man in any trade may hear similar rumors in it. But whatever foundation there may be for such rumors, there seems to have developed regarding such proceedings a sense of shame that makes men slower than they were a generation or two ago to indulge in them openly.

On its unfavorable side, too, competition, instead of stopping at cheapening by simpler processes and legitimate accounts, tends to inferior materials and labor. Though in ordering large works or large supplies, the practice is universal of trying to get the benefits of reasonable competition by seeking bids, people have of late grown so afraid of excessive competition that the right to reject the lowest bids is reserved, though not always exercised. Moreover, competition tends frightfully to run to waste, and, later, paying for this waste tends to make prices high, quality inferior, and commodities scant and inaccessible.

One of the worst wastes is in advertising: everybody uses soap, and no amount of advertising can make people use materially more; and yet those who use the finer kinds probably pay more for having it dinned into them to use a certain brand, than they pay for the soap itself.

I want to use another illustration from my own trade.

No apology should be needed for a writer thus illustrating from his own trade, if he happens to have one; and the more I see of the conditions, the more I incline to believe that he should have one, and that writing should not be a trade. If it ever ceases to be one, however, it will be when trades are less infested by foolish competition. But the interesting question of literature being a trade is "another story," and possibly may be the subject of another essay; though one would hardly be required to justify the writer who has a trade, in illustrating from it: for there he is surer than anywhere else of the first essential of good writing — knowing what he is writing about. The second illustration I want to make from my trade is in the fact that the country probably pays more for having its elementary schoolbooks argued and cajoled and bribed into use, than for the books themselves. Leaving the bribery out, the same is probably true of high-school books; and the increasing amount of interviewing, explanation, comparison, and argument regarding college books, is rapidly making it true of them.

But excessive expenses in competition are worse than wasteful and demoralizing: they are aggressive, and provoke retaliations equally objectionable. The competition in economized production, faithful service, reasonable prices, and reasonable and truthful publicity, is simply incidental to each man's doing his best for himself; but beyond this point it begins to mean each man's doing his worst for his neighbor. Incidental competition contains what truth there is in the aphorism

that competition is the life of trade; but aggressive competition means war, waste, and death.

Perhaps the most trying paradox in competition is that it forces the wise man to play the fool when his competitors do, or suffer for his wisdom. When he is thus between Scylla and Charybdis, what ought he to do? I knew a man who, in a peculiar condition of his business, when a collateral business was making inroads on it, was often met by the proposition from those whose custom he needed, "If you won't concede so and so, I know a man who will." His answer was, "That if I don't make a fool of myself, some competitor will, is not a convincing argument. I'll wait till he does, and the fools put themselves out of the race." And wait he did, and his example prevented many other men from making fools of *themselves*, and did much to relieve his trade from a peculiarly unfair and abnormal competition.

In competition, the call to do the brave thing arises because competition is war. But in war it is often braver not to fight than to fight, and the bravest fighting has not been in aggression, but in self-defense — little Holland against gigantic Spain. And where is the bully now? Though non-resistance is ideal ethics, it should be fundamentally understood that ideal ethics apply only to an ideal world, and that often the attempt to introduce them into a practical world is not only futile, but wasteful and destructive.

As already hinted, the point at which competition

becomes abnormal, forced, and aggressive, is when it is wasteful — when the cost of feeding it reduces profits below the average rate. But it is superficial to estimate profits as money alone: social considerations and the gratification of personal predilection are all profits in the broad sense. For "profits" substitute *satisfactions*, and the general proposition holds.

This seems to hark forward to an ideal — that it is for the greatest good of the greatest number that all men's fortunes, estimated in satisfactions, should be equal; and perhaps the most pronounced individualist would not object to that *as an ideal*, but his contention would be that it is only by the freest opportunity for individual development that men's fortunes *can* become equal; and individual development is competition.

The wastes of exaggerated competition of course prompt the question whether men would not be better off if, instead of competing, they were cooperating — if instead of fighting each other, even incidentally, they were helping each other. As far as human nature has yet been evolved, the change is not possible to any great extent, and the question is too complicated to admit of an answer in the present state of human intelligence. Yet there are some little bits of experience in the cooperation of small groups, and also in occasional middle conditions where purposed competition has ceased, though cooperation has hardly begun. But they are conditions of unstable equilibrium which must soon disappear.

I would illustrate this point, too, from my own trade, despite my having done so already.[1] Such a condition prevailed in the upper walks of the publishing business from about 1865 to 1875, and contained several features that may not be altogether uninteresting.

In the first place, it was a brief realization of the ideals of philosophical anarchism — self-regulation without law. There was no international copyright to protect an American publisher's property in an English book; yet an intelligent self-interest, among a perhaps exceptional body of men, performed the functions of law. By mutual consent, when a publisher had a contract with an English author for a book, or even in the absence of a contract, when a publisher made the first announcement of an intention to print an English book, no other American publisher of standing would print it in opposition. This usuage was called the courtesy of the trade, and for about ten years that courtesy was seldom violated. Moreover, the courtesy was extended to the relations of publishers with American authors. During that period, no publisher of standing would any more try to get away another's client than a lawyer of standing would try to get away another's client, or a physician another's patient. And under those conditions the trade prospered more, on the whole, than it has under contrary conditions.

If that absence of direct purposeful competition could have been maintained, the prosperity could have been maintained. But it depended, as I have intimated,

[1] *Atlantic Monthly*, November, 1905, p. 589.

upon the trade happening to be, at that time, in the hands of men of exceptional character; and the results of peaceful ways were, as has been the case in all history, tempting to the outside barbarian. If the Harpers were making money for the author and themselves out of a book by George Eliot, the Appletons or the Scribners would not print it; but soon an enterprising printer in the West awoke to the fact that there was no law to prevent *his* printing it in a cheaper edition, or to compel him to pay royalty to the author; and print he did, right and left. His example was soon followed by others, and the peaceful and profitable conditions of philosophical anarchism were once more demonstrated impossible of duration in the present state of human nature. As always when men have tried to get along without law, law had to be resorted to, and the International Copyright Law of 1891 was the result.

It is interesting further to note that the spirit of aggressive competition, which grew up after the period of philosophical anarchy, filled the business with waste in advertising, over-bidding for authors, and over-concession of discounts and credits to customers; until, a few years ago, the competition reached extremes which were at last realized to be wasteful and ruinous, and are gradually being curtailed. But the curtailments have made almost as great demands on courage, and on the capacity to see future advantages in present sacrifices, as were required to make possible the decade of philosophical anarchism; and the evolution of another period of non-competitive peace, economy, and mutual

courtesy will probably be as slow as the evolution of human nature.

And yet during that Arcadian period, or rather at about its falling away, there were many to claim that the established publishers were in a combine or trust (though the actual word was not then current), and that the only way a man could enter the business was the predatory way. Yet in a libel suit instituted by one of the predatory people against the *Evening Post*, for calling him a pirate, I heard a successful publisher on the witness stand declare that he had entered the business about the beginning of the period referred to, had never reprinted another publisher's book, and had never been the object of aggression by another publisher, but on the contrary had always been treated by the others with courtesy, and often had the benefit of their experienced advice.

It should be further observed that during this absence of purposeful competition, incidental competition was inevitably going on all the while. At no time under my observation was there more emulation in economy of method and quality of product. During that period was established the great advance in the quality of book-making which distinguishes the American books of to-day from our crude products before the middle sixties.

So far, then, as inferences regarding the whole industrial field can be drawn from a brief and exceptional experience in a relatively insignificant portion of it, and that a portion with some strong characteristics outside

of pure industrialism, it would be a fair inference to conjecture that all forms of industry will gain in peace and prosperity from such advances in human nature as will do away with purposeful and aggressive competition, and that the incidental competition of emulation in methods and product will still be great enough to develop the effort on which progress must depend.

These truths regarding the industrial world were long since realized by the superior minds in the professional world. The high-class medical practitioner does not try to get away his colleagues' patients; does not make his charges lower than those of other physicians; derives no profit from his discoveries, but throws them open to the world; does not tout for practice, and make his customers pay the expenses of the touting; never disregards the call of mercy; and tempers his fees to the shorn lamb, or rather lets the lamb go unshorn. High-class lawyers, too, have restricted their competition to rendering the best service they know how, and have refrained from direct efforts to get each others' clients, and even from advertising for clients. Now it could not have been merely what are usually termed moral considerations that long ago evolved these codes of professional ethics. These men have been intelligent enough to realize that undue competition must in the long run be no more productive than dog eating dog, and that peace and dignity are better worth having than superfluous money.

The commercial world may be slowly feeling its way

toward such conditions, but even in the professional world they are as yet but conditions of unstable equilibrium; lately our terrible American commercialism, and love of ostentation and luxury and superficial equality, have been doing much to send professional ethics to the dogs. This, however, should not be laid entirely to the mere spirit of competition; it must be laid largely to the moral breakdown that has followed the weakening of the old religious sanctions, and that will last until we get some new sanctions from our increasing knowledge of nature.

But the professional world and the publishing world have not been alone in attempts to avoid the evils of competition. For some years past, people in trade after trade have found that they were competing until they were making no money. Everywhere excessive enterprise or excessive avarice, and excessive lack of foresight and character, were defeating themselves. At last, many of the leaders of the respective trades began to meet to agree upon prices, discounts, sometimes number of drummers, and, for all I know, amount of advertising. But there was too much "enterprise," or too little character, to make the agreements last: honest men held up prices while knaves undersold them.

It was at length realized that the only effective plan was to put a whole industry under a central control. Hence the trust. This tended not only to stop waste, but to economize management and office administration; and it was urged that part of these great economies

could be given to the public through reductions in prices.

This was the view of people who had things for sale. But the vast majority who had nothing for sale, and the demagogues who sought the votes of this majority, called these agreements schemes to benefit each particular trade at the expense of the community — and said that, competition being destroyed, the public would be, in the matter of price, at the mercy of the combine. And, despite the wise and economical features of such arrangements, the Sherman law and its progeny have made them illegal. The crude new legislation has seldom attempted to attack the evils in such a way as to leave room for the possible benefits; and has been largely futile and destructive. As a sample, it is now promoting the destruction of the bookstores: I am just mourning the fall of one of the oldest and best, in my little university town in Vermont. The department stores are killing the booksellers by selling the most popular new books at cost, and less than cost, for the sake of attracting custom for other things. When the publishers got together and tried to stop this, their counsel told them that the Sherman law would not permit them to do it by limiting competition among themselves, but would permit them to try to limit it among others, by refusing to sell to dealers who cut prices. But the courts have recently decided that even this aid to the merchandizing of culture has been restricted by our sapient law-makers to copyright books: Homer and Shakespeare are beyond the pale of their assistance.

The law of Illinois exempts day-laborers from the tutelage it imposes on the book-trade. In other words, it has exempted from its provisions the trust whose actions have been the most extreme, and have been most enforced by extreme methods — such as withholding the general supplies of food and fuel; obstructing transportation; and boycott, violence, and murder. Moreover, the demagogues are agitating for the labor trust's exemption from the United States Trust laws; and since the Supreme Court has pronounced against the boycott, the labor trusts are also agitating for legislation to make them superior to the effect of the decision, — superior to everybody else, — to permit them to restrict competition by unlimited coercion.

And for some of this legislation there is not the excuse of difficulty. The Illinois law is probably as bad a case of demagoguery and class legislation as was ever enacted.

My writing of that paragraph was interrupted by the sneezing of one of my boys who has hay fever. The growing paternalization of our government, as illustrated in some features of the pure food act, has prevented my obtaining for him the medicine which cured one of his parents and one of his grandparents.

Will people ever learn that legislation is the most difficult and dangerous of the arts, and that it is best, where not clearly impracticable, to leave the cure of social ills to the courts? There, not only is the experience of the race digested and applied by learning and training, but it is applied only to the case in hand,

instead of (to give the metaphor a twist or two) being sent out crude and unbroken to run amuck.

There can be little doubt that men could make more by helping one another than by fighting one another; but, as already said, in any state of human nature that we can foreseee, the application of non-competitive or cooperative policies to the commercial world cannot in strictness be a practical question. When we imagine Utopias, as always when we try to go very far beyond our experience, we land in paradoxes and contradictions; and when we try to realize Utopias in the present state of morality, we class ourselves with the ignorant or the purblind. Attempts to realize ideals that are merely imagined have probably been the most wasteful and destructive of all human efforts.

Yet often, as in mathematics, much is gained for practical questions by reasoning from impossible hypotheses, so long as we regard them as impossible. We can at least ask a more or less skeptical question or two regarding Utopia. For instance, if no time is to be wasted in competition, what are the advertisers, drummers, revenue officers excluding foreign products, and other people now performing waste labor, going to do for a living? It seems reasonable to assume that they will simply produce twofold — fourfold — useful things that the world is now doing without. And perhaps something even wiser than that — there may not, after all, be produced so many more things: for in Utopia competition in *consuming* useless things will have dis-

appeared. Nobody will have useless clothes, food, wines, jewels, equipages, servants, simply because his competitors have them — each man will be content with what he reasonably needs; and in a cooperative world he will spend his then superfluous powers in cooperating with the efforts of his less able neighbors to get needed things.

Yet more — in Utopia men will have time to devote their efforts to the industry we now most conspicuously neglect — saving our souls; there will be time for geniuses to write their best, and restore literature, instead of hurrying and over-working for superfluous and even hurtful things; and time for ordinary men to read and think; to listen to music, and make it; to look at pictures, and do a little with cameras and water-colors on our own account; to enjoy architecture, and learn enough of it to have some intelligent say about making our own homes; time to potter over our gardens; time to travel; and even time to go fishing, at least with Izaak. A woman to whom I read this said, "And we'll have time to have time." It is needless to say that she lived in New York.

More important still, in the non-competitive Utopia, there will be time to keep well, time to die at a decent old age, and time to go decently to each other's funerals. But before that, and most important of all, there will be time to prevent our having to feel, when we do go to funerals, perhaps the bitterest regret of all: "If I only had had more of that friend while he was here!"

But all this is Utopia. Each man has his own way

to Utopia, and wise men know that they will not in one lifetime get far on any way. But they also know, and know it better each day, that there *are* ways in that direction; and that, while the competition incidental to honest emulation tends to keep those ways open, the competition born of greed and envy tends to keep them closed.

# CREDIT AND BANKING

BY ALONZO BARTON HEPBURN

THE morals and ethics of credit and banking, which I am asked to discuss, differ in no respect from the morals and ethics which determine the proper course of action in any and all other vocations. People, however, do seem to have varying moral standards, which they apply in current affairs, and this accounts for much, if not most of the corruption that exists at the present time in public and corporate affairs. For instance, a man who would be scrupulously honest in dealing with another man, will take advantage of the unseen stockholders in a corporation or the unseen citizen public, and treat them in a most shameful manner. It may be lack of courage to face an adversary and do him wrong, that prompts honest conduct in the one case; it may be that the wrong in the second case, done in the absence of the parties wronged and distributed among many sufferers, thus making detection less likely, emboldens one to do what present criticism or impending detection would restrain. The moral turpitude, whether latent or active, must have existed the same in either case, and this recalls that the best petition in the Lord's Prayer is "Lead us not into temptation." The best way to keep people from wrong-doing is to screen them from

temptation, and in banking the best insurance against temptation is the possession of well-developed banking conscience.

A leading authority says: "The principles of banking are deductions from facts. The science of banking is a collection of these principles. . . . In the physical sciences, as in chemistry, we often discover a principle and then apply it to a practical end. But in banking and in political economy generally, we first collect our facts and then ascend from facts to principles." Still more definite is the commercial law — the law merchant, as it is commonly called — which is the custom of merchants and bankers; custom makes the law, and it is this law that the courts, in the absence of statute law governing the matter, proclaim and enforce. Customs change with the evolution of business; hence the law changes and hence the principles which govern conservative banking also change. Bankers now engage with perfect propriety in transactions which, as to magnitude and character, would have amazed bankers of past generations. And yet, while the banking principle may change in the evolution of business, the ethical principles upon which banking principles are based, do not and cannot change. A banker's contact with the public may respond to varying business methods, but his moral responsibility is ever the same.

According to Gilbart, a banker need not be a man of talent, but he should be a man of wisdom. Talent, in the sense in which it is ordinarily used, implies a strong development of some one faculty of mind. Wisdom

implies the due proportion of all faculties. A banker need not be a poet or philosopher, a man of science or literature, an orator or a statesman, — he will possibly be a better banker without any of these distinctions. It is necessary that he possess a large portion of that practical quality which is commonly called common sense. He must possess intuition, a keen insight not only into commercial affairs, but into the character of the people with whom he deals. He must be a worker, for knowledge and exact information are indispensable for the safe conduct of his business, and as in all affairs of mankind, intellectual ability of a high order is the only guaranty of marked success.

### *Credit and Character in Commerce*

Commercial banking is the banking that finances commerce and trade. A commercial banker has less excuse and greater opportunity for wrong-doing, perhaps, than men engaged in any other vocation, because he handles money which is easily misappropriated. A banker deals in credit; his business consists in swapping a well-known for a less-known credit. A customer, whom he knows to be responsible, presents his note, which the banker discounts, in exchange giving the customer currency of the realm, or it may be an instrument representing the bank's credit, which is available in paying a debt or making a purchase either at home or in any foreign country, as the customer may desire. The customer's credit, known and good only in his

immediate vicinage, is resolved into a credit known and good throughout the world. Or it may be that the local customer has received an obligation payable at some far-distant point. It is not a well-known credit in that locality and therefore not usable. The banker takes it, gives a local credit therefor and proceeds to collect the same by usual course of exchange.

A banker presents to the public his financial responsibility, his capital, his moral responsibility, his character, and solicits business. Most of his advertising is voluntary and for the purpose of attracting business, but much of it is compulsory and for the purpose of giving the public information; hence a bank is required to make and publish, under oath, periodic reports of condition, and is regularly examined by Government accountants. He first asks the public to give him credit, to have confidence in his honesty and ability and to entrust him with its funds, as evidenced by deposits and by the foreign and domestic exchange that constitute the volume of a bank's business. He, in turn, extends credit to his customers.

It follows that a bank's credit is a matter of constant inquisition on the part of the public, and in turn the banker becomes a "father confessor" as to material matters, to such people as desire to make use of the bank's funds. Corporations and large enterprises are required to have their affairs examined and certified by public accountants; such auditing is necessary to establish their credit. Individuals are required to make statements, showing in detail their assets and their

liabilities, both direct and contingent, as a basis of credit; that is to say, as a basis for borrowing money or purchasing commodities.

The most intimate and confidential relation exists between the banker and his clientele, and confidence obtained under such circumstances and for such purposes would render the betrayal of the same perfidious.

### *Narrow Range of Rightful Risks*

In the popular laical view of banking the element of risk is largely present. As a matter of fact, the field of justifiable risk is a surprisingly narrow one.

A good banker seeks to make money, not out of his customers, but along with them. By loaning a customer funds to carry on a successful business venture, the banker makes his interest while the customer makes his profit. In a sense they are partners, but with this important difference, — the most a banker can make is the agreed rate of interest, while the customer's profits may reach a very large percentage, dependent upon the price of commodities, market conditions and various influences. The manufacturer or merchant may derive great profit from the enhancement in value of his stock in trade, and of course the reverse may prove true. The most a banker may hope for is that his receivables will be paid, at their face value, at maturity. There is no appreciation; anything out of the ordinary course that happens to a banker is always to his disadvantage. It is right, therefore, that he exact the best of credit or good collateral.

General trade, however conservatively conducted, has speculative features, and success depends measurably upon ability to correctly forecast the trend of prices. A banker should not loan funds to be used for an improper purpose, nor to be used in what is likely to prove an unsuccessful venture.

A crop failure, whole or partial, puts the credit of an agricultural community in jeopardy. Depression or stagnation in any branch of trade or manufacture would have the same effect upon any locality depending upon such industry for sustenance or prosperity.

A man asking credit is entitled to a "yes" or "no." A bank has a moral obligation, which in practice has all the force of law, to make loans for reasonable amounts to people in good credit, who patronize the bank. In order that decisions may be intelligently reached, the manager of a large bank must understand economic conditions throughout the world. That involves a study of the economic journals of the different countries, a close tab on current events, a cable touch with leading correspondents in metropolitan centers everywhere.

### *Banking Responsibilities now World-Wide*

Bankers' responsibilities are as wide as the world's market. Steam has brought all parts of the world into close contact and electricity has welded them. It would require but two or three hours at most for a New York banker to make a payment for a customer in any part of the world. The elements that determine the

question of gold exports or imports are interest on the money during the time it is in transit, express or transportation charge, insurance and abrasion. Long before the swiftest ocean greyhound can transport the precious metal, the cable transfer has anticipated the event and the gold arrives only to consummate a prearranged transaction. If you will recall the various kinds of business that reach into our large banks, you will realize the importance and the labor involved in properly mastering this field. Such demands have a tendency to broaden a man and bring out the best there is in him.

How manifold the fiduciary functions of a banker are, can be appreciated only when one analyzes his relations (if the business be incorporated) to the shareholders or partners — those whose capital is employed; to employees, upon whose morals and efficiency his success depends; to the depositors, who entrust to him their surplus means; to the borrowers, whose business success may be dependent upon his action; to competitors and correspondents; to the entire community, whose welfare and progress may be affected by the conduct of his business; and finally (if the influence of his bank becomes extended) to the State and nation, whose credit structure is necessarily so largely based upon that of the great banking interests.

By this enumeration of the characteristics of commercial banking and the qualifications of commercial bankers I seek to impress upon you the responsibilities pertaining to the business and devolving upon the men engaged in the same. They exercise a twofold trust —

a public trust as to funds deposited with them, and their relations to the public generally; a private trust in their relations to their individual patrons and the confidential knowledge which they obtain as to their private affairs. While they have greater opportunity for doing wrong, they have less excuse. They should be judged by a higher standard than the average business vocation and visited with more severe condemnation in case of wrong-doing.

### *Concrete Duties of Commercial Banking*

Let us turn to the obligations involved in working out the concrete problems of banking practice.

I used to think that banking must be the easiest of business — opening at 10 A.M. and closing at 3 P.M., it could not be very laborious, and autocratically making or refusing loans, entertaining or discarding propositions, appealed strongly to my self-complacency. Experience taught me that ten to three were the hours to the public; that every banking day was and must be complete in itself; that all accounts must be proven and balanced, if it took until three o'clock the next morning. The fact that accuracy and certainty must prevail exercises a most wholesome influence upon clerks. Character, accuracy and certainty are the working capital of young men.

I found that people who kept accounts in the bank had claims upon it, had a banking equity, which means that they were entitled to a certain amount of loans

corresponding to the value of their accounts. I found, also, that those claims always materialized when money was difficult to obtain. I found that a bank President, instead of being an autocrat, was a servant, that he must gauge the probable demands of his customers, presage the condition of the money market, and so determine the character and maturity of his investments as to be able to supply the needs of his patrons and do it with a smile, do it in a way to command their confidence and protect their interests, and retain their business.

Every business has its lean season and its flush season. Banks in the cotton belt are borrowers during the making and marketing of the cotton crop. When the crop is sold and returns realized, banks in the cotton belt have plentiful funds and maintain large balances. So with every business. If a man had money enough to finance his business during the period of greatest demand he would necessarily have a large amount of idle funds during his easy period. Such a condition would impair his profits. The function of commercial banks is to equalize conditions by loaning him at certain periods and utilizing his deposits at other periods, for the benefit of others. All businesses do not require loans at the same time; all sections do not require loans at the same time. Banks with diversified accounts, covering all sections of the country, supply the money demands of one section with the overplus of another, and thus the money of the country is kept constantly at work in the interest of commerce. What our large

metropolitan banks do for the country as a whole, the smaller banks do for their local customers, acting as a clearing house for their community.

### *Other Types of Banking*

There are many other kinds of banking beside commercial banking. Savings banks are designed to serve people of moderate means, who are not themselves in position to make judicious investments. They deal with the widow and the orphan and hence their officers are under the highest moral responsibility. The amount of individual deposits is limited, upon which conservative dividends or interest is allowed. The investment of savings-bank funds is carefully regulated; provisions to prevent panicky withdrawals of funds may be enforced. Savings banks in the aggregate are perhaps the greatest investors in bonds that we have; still they are a negligible, rather than an active factor in current finance.

Trust companies, so far as their business is of a trust character, especially with reference to estates, are quite as much outside of the currents of commerce, as is the business of savings banks. But at least 75 per cent of the business done by trust companies, so-called, is banking business pure and simple, and should be governed by the same ethical principles.

A most important business is done by quite a different type of financial institution, known as banking-houses. Promotion and syndicate banking is usually originated

and consummated by them. They are not chartered by the Government, do not receive deposits, consummate their business with their own funds and such funds as are voluntarily entrusted to them by their syndicate associates. They are bound to honorable conduct and square dealing, but manifestly are to be judged by a somewhat different standard. They put their own funds at risk and their associates join them after examining and passing favorably upon each specific transaction.

### *Underwriting Syndicates and Promotion*

It is the colossal character of modern financing of corporate, municipal and national undertakings that has called into prominence the syndicate system of securing the requisite funds. The Pennsylvania Railroad, for instance, with its great terminal enterprise, whereby it enters the heart of the City of New York and tunnels under both the Hudson and East rivers, has been asking funds of the public at various times, in amounts ranging from $40,000,000 to $100,000,000.

The Union Pacific, with its ambitious extensions, the Northern Pacific and Great Northern, not to mention other large systems of railway, as well as our large industrial enterprises, in their proper development, ask sums of money too large for any one banking-house to finance, except in cooperation with others. Such cooperation is tersely termed a syndicate. It is necessary that some concern, as syndicate managers, arrange

an underwriting and distribution, in order to insure the placing of loans of the class I have described.

Promoters of courage and sagacity are entitled to the credit of accomplishing some of our greatest and most beneficent works. The New York subway is a good example of what may be consummated by men capable of grasping a problem and foreseeing the result, despite popular belief that failure is inevitable. The fact that there are many visionary promotions, rascally promotions, as well as syndicates conceived in sin and born in iniquity, emphasizes the necessity for great conservatism and careful discrimination. Condemn the wrong and punish the wrong-doer, but remember that the great requirements of modern business undertakings can only be met by the syndicate, and that promoters are the pioneers of progress.

### *General Dependence on Commercial Banks*

There are mortgage banks, loaning exclusively upon real estate, and other specialized features of banking, all important in themselves and all contributing to round out and make most effective the general scheme and instrumentalities for financing the industries of a great people, but the sub-strata, the backbone of all banking, from which all other features radiate and to which they hark back in time of stress, is commercial banking. The savings bank, the mortgage bank, the trust company, when they need to liquidate any of their securities, have recourse to the commercial banks.

The assets of commercial banks consist, or at least they should, of liquid obligations. From 15 per cent to 25 per cent of their deposits are required by law to be kept in cash, the amount varying according to the locality of the institution. A large line of call-loans is carried by banks in New York and other large cities — as a second reserve.

Banks generally throughout the country depend upon their maturities for means to meet current demands. A careful study of the business of their customers enables bankers to know the time and period and probable amount of their customers' borrowings and they gauge the maturity of their loans and discounts to meet such demands. Interior banks have recourse to borrowing from metropolitan banks in order to supplement their resources and equalize their demands. Metropolitan banks have no borrowing resource, except where the condition of foreign exchange enables them to use their credit abroad.

The assets of a commercial bank should at all times be in a liquid condition, ample cash reserves — short-time maturities, four to six months' maturities, which represent the turnover in current business. The note of the farmer or planter is paid with the proceeds of his marketed crop; the note of the manufacturer or merchant is paid with the proceeds of his goods sold, for which, payments come about in the regular course of business — the notes of importers, who are dealing with foreign countries, are paid with the proceeds of goods imported, supplemented, perhaps, by a movement of

gold. A bank's assets, predicated upon such business, are constantly being paid and renewed, and hence the money power of the institution is always at the command of the management. Such banks may lose from unwise granting of credit at times, but can never go far wrong.

### *Unsound Banking*

I have described good banking, now let us glance at that which is more or less reprehensible.

A banker cannot know what the checks and drafts, called exchanges, which pass through his bank, represent. He can and should know that the individuals and corporations who open accounts with him are reputable and engaged in legitimate enterprise, not only free from dishonor, but serving a proper demand on the part of the community, for then they are likely to succeed.

A bank should not make loans to its officers save in very exceptional cases, and then with collateral such as to place the loan beyond criticism. A banker's judgment in making loans should be untrammeled and his standard of credit should not be lowered nor his independence of action impaired by the difficulty in refusing to others credit similar to that which he had already taken for himself. False credits are seldom extended where the interest of the bank and the financial ability to repay on the part of the borrower, are the only questions at issue. In banking, as in morals, we often go

astray, more from want of firmness than from want of knowledge, and the firmness of a bank officer should not be lessened by a use of the bank's funds on his own part.

Statistics of failed National banks show that, in the great majority of cases, failure was brought about by an undue use and abuse of the bank's funds by the insiders — officers and directors. National banks are prohibited from investing in stocks of any corporation, and that policy should govern all commercial banks. Stock represents the ownership of property — the title-deed, as it were — whether the same be railway, industrial or other stock. The earnings of a corporation determine the dividends upon its stock, which may be much or nothing. No speculative account or underwriting with reference to stock should therefore be entertained.

Commercial banks may buy bonds, because they are receivables, obligations for the payment of a specified sum, upon a date certain, with fixed amount of interest. They are usually long-time obligations, and no commercial bank should invest in such securities more than that portion of its deposits which partake of the nature of savings bank deposits. As we have seen, the magnitude of some of our corporate borrowings is too great for any one banking-house to finance. The borrowings of our cities, states and general government furnish additional instances. A commercial bank may, therefore, within modest limits, participate in a bond syndicate and carry the bonds received until they are absorbed by the bank's clientele.

What a bank may not with propriety do, the bank's officers should not do. Tempting underwriting is frequently offered to bank officers to predispose them favorably to regard loans to the syndicate or people interested therein. While the promoter is an essential factor in modern industrial development and the syndicate simply means the union of many to carry out undertakings manifestly too great for one, they are nevertheless both under suspicion and should be approached only with greatest caution and conservatism. The amount of securities, conceived by promoters, underwritten by syndicates, associated with great names and born into the commercial world during the past few years, and sent forth to solicit the confidence of the investing public, presents an appalling total; securities in good part representing honest enterprise, securities in good part also designed to anticipate the prosperity of the future, and by foisting them upon an unwary public, yield to their sponsors a present price far in excess of their present worth; securities, pardon the use of the word, in good part also, conceived in iniquity for no other purpose than to defraud the public of such moneys as they might be tempted by specious promise and simulated truth to invest.

We hear much of corporate greed and oppression, of grinding monopoly, of the severity of taxation — their hardships are light compared with the wrong done through get-rich-quick concerns from the bucket-shop up to the over-capitalized promotion which, by ingenious falsification, is worked off upon the public.

The financial loss is enormous, but the moral loss is greater; the gambling instinct has been fostered, the modest profits of normal, legitimate enterprise rendered unattractive and the moral tone and standard of the community greatly abased, and to the lasting criticism of the administration of our criminal law, such swindlers are seldom, if ever, brought to trial, let alone to punishment.

### *Morale of a Bank's Working Force*

Passing now to the responsible personnel of banking operations, I take up the principles that govern in the selection of its officers, its clerical force and even its clientele. Bookkeeping groups under appropriate general heads, few in number, all the items constituting the assets of a bank, and *per contra* all the items constituting a bank's liabilities. The balance is a registry of results; by it the officers are enabled to see at a glance the bank's condition as to resources; intelligent action is thus rendered easy. As to the correctness of the balance sheet a banker must depend upon the efficiency of his system. Duplicate and triplicate checks may be provided for, which would require a conspiracy of three to swindle without immediate detection, and would render detection in the near future most probable. I know of no way of preventing the President of a bank from swindling the same, if he wants to, and in every system, however elaborate, a point is reached where its efficiency depends upon individual honesty. We can-

not have anything better than men and hence the prime necessity of making character a controlling influence in selecting the working force of a bank from President down, and also making character the final test in a bank's clientele, both borrowers and depositors. No person should be accepted as a depositor or customer, except he satisfactorily passes the most rigid scrutiny as to character; and no corporate business should be taken on unless it be free from criticism, and with good management bids fair to succeed. Then it should be taken, however small it may be. The best accounts are those which grow with the bank from small to large proportions.

A paternal influence should be exercised over the clerical force and wrong-doing should be made so difficult and so sure of exposure, as to relieve employees from temptation, especially during the formative period of their character. Banks employ bonding companies to guaranteee them against loss from the dishonesty of employees. These companies keep close tab on the movements of the entire force and report not only conduct which is bad, but also that which has a bad tendency. The party under criticism is then talked to in a way to show our interest in his welfare. He also realizes that he is under supervision.

### *Instances of Dereliction*

This instance once fell under my observation, when I was a bank examiner: A bank had a loan secured by

warehouse receipts. The bank had a suspicion, amounting almost to conviction, that these warehouse receipts were fraudulent. They pressed the party for payment, giving him at different times some of these receipts, upon which he procured loans elsewhere. This bank received its pay, and when the exposure came other banks were found to have loans upon the same receipts, which proved to be forged, and of course lost their money. Upon the surface, this seems shrewd, sharp management. Morally, this bank was a party to procuring loans upon forged documents in order to effect payment of its own loans.

In another instance a bank had loaned upon municipal bonds, which proved to be forged. Investigation practically satisfied the bank of this fact. They also pressed for payment. Through the exertions of their creditor, they were instructed to deliver these bonds to another banker, upon payment of their loan. Upon discovering the worthless character of the bonds, the second banker brought suit against the first, claiming that they, knowing or believing the bonds to be worthless, became a party to the fraud by failing to disclose their information. The suit was settled out of court, and it would seem that the financial responsibility was quite as apparent as the moral responsibility in this case.

It sometimes happens that people establish a credit for no other purpose than eventually failing and making money by effecting a settlement for a small percentage of what they owe. Banks are prone to accept such

settlement as the easiest or probably best way, from a money standpoint, instead of prosecuting the swindlers. They invite such swindling by their passiveness. The creditors are widely distributed, no one feels like taking the responsibility, and the enforcement of criminal law is lax and dilatory throughout our country in respect to swindling transactions. Unblushingly false and fraudulent statements are made in prospectuses and circulars sent broadcast over the land; they appear constantly in the columns of newspapers, for the purpose of inveigling the public to invest in properties of more than questionable standing and value. However disastrous such investments may prove, prosecution seldom or never follows. The great fortunes made and paraded in the press by lucky speculators, the fortunes made by the advance in values, as for instance ore properties, the conspicuously large fortunes of some of our people, have excited a speculative mania that has taken possession of our whole people. Money, by some lucky stroke, is the desideratum, and the extent to which people in the humblest walks of life are being constantly swindled through the instrumentality of false advertisements and false circulars, is little dreamed of by people generally. The public needs awakening upon this subject; men should be made financially and criminally responsible for all statements made for the purpose of inducing any one to purchase. And the men who send out these circulars call themselves bankers. Wall Street brokers are catalogued as "bankers," and I wish to impress upon you the necessity of discriminating

between these classes of so-called bankers and those who serve the commercial and trade needs of the country.

### *The Trusteeship of Banking Resources*

All that has been said with reference to the character, honesty of purpose and sincere business endeavor on the part of the clientele of a bank, applies with equal or greater force to the bank itself and the officers and management. Sobriety, dignity, and a proper respect for the conventions of society and the demands of public sentiment should characterize the management. By setting a good example they fortify their position and reinforce their demand of like conduct on the part of their patrons.

The highly fiduciary character of bank management is patent in the large proportion of deposits in the total resources. Twenty per cent of the total resources of the National banking system belongs to the stockholders; 80 per cent belongs to the public in the shape of deposits, and in other forms incident to the business of banking. It follows that 80 per cent of the banking power of these institutions is owned by the public; they are, then, eminently public institutions. The growth of fiduciary responsibility and accountability to the public on the part of bankers is pronounced, and justly so. By exercising a wise discrimination as to character, they tend to raise the moral tone of the whole. By exercising a wise discrimination as to investments, they have it in their power to measurably restrain bad adventures. Their officers sustain fiduciary relations

to the public of the highest character and should be judged by the highest standards. When rendering judgment the public should be careful to differentiate between commerical banking and the various forms of business enterprise conducted by people generally styled "bankers."

Banks dishonor and prosecute their customers when they default in payment of obligations, and surely they should be most punctilious in payment of their own. By far the greater part of a bank's obligations to pay is what they owe depositors. The commerce of this country can only prosper by having it understood and believed both at home and abroad that depositors in our banks can withdraw their funds at any time and in any form — exchange or gold — which they may require. This is indispensable alike to the expansion of our trade and the development of our industries, and also to the maintenance of our credit and character as a nation.

This statement may properly be regarded as critical in the extreme, in view of the fact that practically all of the banks of the country suspended currency payments for several weeks during the closing month of last year. A wrong was done and a grievous fault exists, and since we are discussing the ethics of banking, it may be in order to inquire wherein the fault lay.

### *Lessons of the Crisis of* 1907

The total currency in circulation January 1, 1908, was $3,078,989,298; the total bank deposits in all banks

at the same time were $13,835,223,558. Hence it is manifest that if all depositors sought to withdraw all their deposits at one time it would be impossible for the banks to pay them. In fact the deposits in the City of New York, of the banks, trust companies and savings banks at the height of the crisis last fall, exceeded the total circulation of the country, and yet the circulating medium is ample for all business needs. The fault of our currency system is that there is no simple, expeditious method whereby banks in any locality where funds are being withdrawn, either for hoarding or commercial use, can expand their currency in order to meet such demands, — no flexibility.

Our banks, with ample capital, with good management, rich, strong, replete with liquid assets representing the best credit of the country — and that means the best credit of the world — could obtain no currency except the gold they bought away from the banks in other nations, in as great or greater stress than themselves, by paying a very high premium therefor. The importation of gold takes time, and before the same could be procured in sufficient volume, a panicky feeling on the part of the public was fully developed.

The crisis last fall was precipitated by the failure of a stock-gambling enterprise of people who, by means of inherited or adventitious fortunes, were able to purchase the control of several banking institutions. The collapse of their stock speculation brought distrust upon their banks and the "run" precipitated upon them excited a degree of distrust on the part of the

public, which resulted in the withdrawal of money for the purpose of hoarding. It had the further important effect of inducing the employees of the various mercantile and manufacturing concerns and other patrons of labor to withhold the money received from the payroll and retain the same in their possession, instead of as usual depositing the same in the banks.

The shortage of mobile capital, evidenced by money stringency during the fall and early winter, was world-wide. The growing volume of business, which characterized the whole commercial world during the last four or five years, the greatest boom period the world has known, culminated when it reached a point where over-taxed capital and over-strained credit could no longer sustain the burden. This condition being world-wide, it affords an excellent opportunity to compare the commercial and currency systems of the different countries under the trying ordeal of crucial experience. The result of such comparison certainly cannot be flattering to the United States. With our enormous annual production of gold and silver, with our enormous exportation of food products and raw materials, an advantage that Europe does not enjoy, we were the only country that was obliged to suspend currency payments.

### *Inadequate Laws Demoralize Credit*

This proves conclusively the inferiority of our currency system. It is characterized by European financiers as "barbarous," and the leading bankers of

Germany tell me that had they possessed our currency system they would have had a cataclysm in their industrial and financial institutions. In Germany any bank with good three-name commercial paper can go to the Reichsbank, discount the same and receive the proceeds in currency. The Reichsbank, or Imperial bank, is authorized to issue 472,829,000 marks in currency without tax; they may issue beyond that amount, but are required to pay a 5-per cent tax to the Imperial Treasury. They must have the notes so issued at all times covered by three-name commercial paper in their possession, and must keep a metallic reserve equal to 33⅓ per cent.

In the United States there is no bank-note circulation, as the term is defined by economists and generally understood. The banks may buy bonds, deposit them with the Government and the Government issues to them bank-notes, which the Government in turn redeems. That is to say, a bank may pay $105,000 for $100,000 bonds, 105 being the market price, against which they may receive currency at par. That is to say, they are required to pay more for the currency than it is worth; they lock up the premium, and every bank that takes out circulation under these conditions weakens itself and impairs its ability to meet the demands of the public, rather than increases them. They are required to go outside of their legitimate business and buy bonds which they do not want, a portion of the cost of which only is returned to them in the form of circulation.

The responsibility for the unfortunate, humiliating and most expensive experience of last fall rests with the people who make our laws. Let legislation be such that a bank in good condition, with ample assets of good character, can obtain currency to meet the public demands, and then if any institution fails in meeting such demands, the responsibility rests upon it and it should be disciplined accordingly — placed in the hands of a receiver for an act of insolvency. The normal, natural and legitimate assets of commercial banks, assets acquired in the regular course of serving the commerce and trade of the country, should be made the basis of bank circulation. That is what is meant by "asset currency."

I do not purpose the discussion of our currency laws, but what I have said seems called for in discussing the ethical side of banking.

### *Varying Types of Customers*

The banking standard of character, with reference to making loans or receiving deposits, contemplates a man whose habits and principles give him good standing in his community; whose convictions and idiosyncrasies will not militate against his success; whose ability and experience justify his undertaking the business he has in hand, and whose capital, supplemented by what the bank may loan him, is sufficient for his enterprise.

We do business, at arm's length, with all sorts of men,

which the varied and kaleidoscopic features of our industrial life bring into the maelstrom of business. But our associates, measurably of our own selection, should be persons of character.

The most tiresome man is he who, with time on his hands, makes a modicum of business savor a conversation covering the whole gamut of past, current, and prospective conditions, and when he has finished at one desk calmly awaits his turn for repetition at another.

The most sunshiny is he who exhales cordiality, and keeping close to the business in hand, by pungent wit or original expression, gives ease and charm to an otherwise prosaic affair. Our lives generally are spent in business activities, and but for the genial smile, the jovial word, the feeling of affiliation that soften the asperity and vivify the routine of labor, our lives would have a treadmill character indeed.

The most disagreeable is the sordid man, who never misses an opportunity, who exacts everything and gives nothing, whose thoughts are stamped with the dollar mark and whose virtues are dwarfed and obscured.

The most dangerous man is the enthusiast, honest in his motive, confident of the results, who in his fervor may carry conviction and obtain credit, only to end in loss and disappointment.

The best man is he who, by hard work and good judgment, seeks to furnish the public something which it is to their advantage to possess, at a fair price, and makes his living and makes his fortune by giving value received.

In this age of commercialism, sometimes called money-mad, when people strive to accumulate far beyond their needs, and as a rule, seemingly, with no settled purpose of devoting their wealth to any public purpose, sacrificing ease, pleasure, culture, all with its concomitant extreme of growing socialism, with wealth and its possessors under scathing denunciation, I can find no better sentiment with which to close this lecture than is expressed in the following quotation from "Taylor's Notes on Life," written more than two generations ago:

"The philosophy that affects to teach us contempt of money does not run very deep; for, indeed, it ought to be still more clear to the philosopher than it is to the ordinary man, that there are few things in the world of greater importance. And so manifold are the bearings of money upon the lives and character of mankind, that an insight which should search out the life of a man in his pecuniary relations would penetrate into almost every cranny of his nature. He who knows, like St. Paul, both how to spare and how to abound, has a great knowledge; for if we take account of all the virtues with which money is mixed up — honesty, justice, generosity, chastity, frugality, forethought, self-sacrifice — and their correlative vices, it is a knowledge that goes near to cover the length and breadth of humanity; and a right measure and manner in getting, saving, spending, giving, taking, lending, borrowing, and bequeathing would almost argue a perfect man."

# PUBLIC SERVICE

BY EDWARD W. BEMIS

THE term public service may mean not only work for the public, in an elective or appointive office, but also work in a private capacity, as a molder of public opinion. The morals and ethics of such service cover our duties growing out of the importance of public work and its need of our help. Before such an audience as this, nothing surely can better emphasize the subject than to show how much we are coming to depend upon public work and how much improvement we can make in it. The graduates of such an institution as this have moreover a direct personal interest in good government. The more that good engineering and executive ability are appreciated, the more will a high grade of professional service be in demand and the more permanent and better paid will be the work that our technological graduates will be called on to perform for their city and state.

In the year 1905 the population of 22,204,000, estimated by the United States Department of the Census as living in our one hundred and fifty-four largest cities, were contributing to city government alone, for its operation and maintenance, $25.80 per capita, or $129 for every family of five. This was aside from any ex-

penditures for land, buildings, and other improvements out of bond issues. This expenditure has been rapidly growing, and to-day New York City has $160,000,000 of yearly expenditures, or more than those of London, or Norway, Sweden, and Holland combined, and more, too, than both Belgium and Switzerland.

Yet it is not the cities with the lowest expenditures per capita that are the best governed or that are doing the most for their citizens. In the sixteen cities of over 300,000 population, contrast the reputation for good government enjoyed by at least two of the three having the highest per capita expenses (Boston, $48.90, New York, $41.12, and Washington, $38.77) with the three cities having the lowest expenditures per capita (Milwaukee, $17.36, New Orleans, $19, and Chicago, $20.95). One must admit that it is often the case that the best governed city is not that which spends the least money per capita. Cleveland, with an expenditure of $25.72, surely has a better city government than Philadelphia with $22.96 per capita expenditure.

Not only in the city, however, but in the state, have we come to recognize the fallacy of the old Jeffersonian doctrine that the best government is that which governs least, and the best tax is the lowest. Neither is there any reason to be alarmed over the fact that the indebtedness of all our cities of over 30,000 population, after deducting sinking funds, is $58.48 per capita; for these same cities, according to the United States Census Bureau, possess $37.44 per capita of productive property, such as waterworks and lighting plants, and $68.93 of

unproductive property such as parks, public buildings, sewerage systems, paving, etc. In other words, for every dollar of debt there was, in 1905, $1.82 of property. Moreover, the people pay as much to the street railway and lighting companies of our large cities as they do in real estate and personal taxes.

Nevertheless, the growth of public activities has been startling. State expenditures have increased chiefly in the matter of public highways, education and the care of the defective and criminal classes. But in cities the increase of expenditures for our fire departments, schools, streets, health, and even our pleasures through parks and playgrounds, and in the supervision of our tenement buildings, has gone forward by leaps and bounds. We now realize that in many cases men are not the best judges of their own interests, while in other cases their interests are not identical with those of the community. Only through society in its organized capacity can we protect our forests for the next generation and our rivers for the present, or prevent rebates to the strong, and child labor among the weak. Only through government can we abate the smoke nuisance, force the abolition of grade crossings, and protect ourselves from smallpox, tuberculosis, and other contagious diseases.

There is scarcely a function of government to-day that was not once in the hands of private enterprise or of the church. Our police and fire department, our roads and our schools, were left to the profit-maker or to private philanthropy, while provisions for sanitation,

pure water and sewage, building inspection, and control of child labor were left to the head of each family.

In the light of the increased activities of State and Local authorities, and in view of the growth that we have seen in the same in most states, during even the last five years, who can say when and where the movement will stop, or who can even be confident as to where, amid our rapidly changing conditions, such activities ought to stop? Yet in saying this, I do not speak as a socialist, but as a firm believer in the advantages of the competitive system wherever it does not, of itself, break down from natural causes.

The growth of public service is not due to increase of crime, but to the growing complexities of life and of the occasions for universal cooperation.

### *The Ethical Side of the Problem*

Since public business is rapidly assuming such large dimensions, the duty imposed upon all citizens, and especially upon those of college training, is clear. Whatever our views as to the enlargement of governmental functions, we must recognize our duty to take the lead in helping the government, whether state or local, to perform well what it has already undertaken.

Strange as it may at first sight appear, the modern city fulfils many functions of the early Christian Church. It preaches the gospel of cleanliness and health in the home through its provision for cheap water, proper housing, inspection of food, prevention of disease,

removal of garbage and ashes, etc. It has assumed the education of the child, and even of the adult through public libraries and school lecture courses and evening classes — an education formerly provided only by the Church. The child enters upon its "teens" and goes to work, and the city safeguards the conditions of its employment as rigorously as did ever the Church in the Middle Ages. When poverty and disease overtake it, the city instead of the monastery provides hospitals and other forms of relief.

The unity characteristic of the early Church is found to-day only in the modern city, where there are scores and hundreds of churches but only one government. The sense of brotherhood taught by the early Apostles is now best seen at the ballot box and at the City Hall, where the masses feel as much at home as in the church.

The famous London editor, Mr. Stead, who has strikingly called attention to this point, speaks of how, in case of a fire, all the resources of the city are concentrated upon the point of danger. He says: "There is no question as to rich and poor, no discussing in police stations or at the fire department as to whether or not the locality was a long way off or what might be its ratable value or anything else. There is fire, and there is need, and that is enough. The whole machine, splendidly equipped in perfect discipline, acts almost automatically on any appeal from any section of the community:

"Contrast this, where we have the social organism functioning at its best under municipal guidance and

direction, with the way in which the ecclesiastical churches act when some moral pestilence, which it is no exaggeration to compare to an outbreak of hell-fire, takes place in any quarter of the town. To begin with there is no special patrolman to give the alarm, and if there were, there is no arrangement by which the cry could be heard, let alone be heard instantaneously throughout the churches of the city. But supposing that by some telepathic miracle, the spiritual watchman could sound his warning note in the ears of all the churches, how many of them would respond? Some would shrug their shoulders and say it was outside their parish, others would remark that it was among the Catholics and not for their people, others again that there were no Catholics in the region, but they were all Jews, and that they ought to look after themselves. This refusal is born not of selfishness or of cruelty, but is due simply to the fact that the evolution of the Christian ideal of the unity of the social organism has not yet attained so high a point in the churches as it has done in the municipality."

Some of the greatest evils in our society to-day are those which only a government supported by a proper public opinion can remove. Such are the evils of unequal taxation, the undue absorption by a few of the profits of special privileges, the lack of a square deal in matters controllable by the legislature or the courts, corruption at the primary and the ballot box and in the conduct of government, the unsanitary condition and lack of protection for the weak in their conflict with the

predatory instincts of the powerful. If Jesus were to appear to-day He would be quite as likely to find His greatest field of usefulness in the City Hall or the State Capitol as in the temples consecrated to divine worship, great as is the value of the latter.

We are taking and are obliged to take an increasing interest in the new problems that are arising with dense population and the growth of large corporations and monopolies. We are learning that men are not born so much with inalienable rights as with imperative duties.

Although the legislative agents of government, through so-called "strikes," sometimes attempt to force corrupt payments from privately owned monopolies, yet whenever communities have been able in any direct way to express themselves, they have sought justice and have been even generous. Individuals in society, however, often inflict great injustice upon government in demanding exorbitant prices for land and supplies sold to public authorities and in carrying trade union ethics of private warfare into dealings with the public. This important phase of our subject must be passed over with this mere reference. Attention is next called to those people avowedly engaged in public service.

### *Administration — Its Growing Importance and Present Weakness*

With the growing activities of the city and state there is a corresponding growth in the number and character

of those who carry out these various activities. Mr. Sidney Webb, the leading English authority of to-day on local government, informs the speaker that the greatest progress in England during the last seventy-five years has been in the development of expert services in administration.

Contrast that with our own weakness in this respect. The spoils system at once occurs to us. That this system promotes inefficiency and increases the cost of work is admitted by all. Where employees get their positions through the favor of a politician I have found them inclined to rely on the continuance of such support as more important than a strict adherence to and zealous performance of their duties. Carelessness, laziness, poor work, and insubordination naturally follow: men come late to their work and are not conscientious in its performance. The uncertainty of tenure and the contributions expected during campaigns deter as good a class of men from taking work under the spoils system as in private business. Political issues are clouded. Men take an interest in campaigns to perpetuate or to secure jobs for themselves or their friends. Issues cannot be clearly seen by the people because of the dust that is raised by the spoilsmen.

These conditions discourage the general public from favoring a more rapid assumption of public work. Why, then, it is asked, has not the spoils system been long ago discarded? It is certainly not because of the social prestige of its friends. Few men of influence in business or professional life have a good word to say for

the spoils system, yet it still does survive in nearly all of our cities and states.

It is well known that the majority of postmasters as well as the employees of most cities and states are appointed because of their political activities or affiliations. The reasons are not far to seek. The spoilsman is of vast aid in the primaries and nominating conventions. Success there is vital to the party leader. On the other hand, the public is not aroused. The leaders of civil service reform are often aristocratic in the worst sense of the term, and therefore without proper following. Most reformers in this country urge a civil service law putting the selection of two or three from whom the appointment must be made, and also the control of dismissals, into the hands of a commission. This is far from satisfactory. It may, and if honestly administered will, greatly lessen control by politicians. It does not, however, give the efficiency or power of initiative in government, whose importance in public work will be more recognized when more undertakings of a business character, like the supply of water, gas, electric light, street railways, and the disposal of garbage, are assumed by the municipality. In England reliance is placed on the man, as it should be, rather than on civil service laws. Superintendents are selected who are capable of entire management of the plant, and they are allowed freedom in the choice and discipline of their employees and are held responsible for results.

You, as engineers, will find it important to guide cities in the drawing of specifications and the inspection

of contracts let thereunder. Too little intelligence and civic spirit are now bestowed upon these important matters. The inspection of contract work in paving and building, and in the furnishing of supplies and machinery, for the public is becoming of increasing importance. We have devoted considerable attention in some states to securing proper inspectors of child labor, sanitation and building, but have not placed sufficient importance upon the other lines of business just mentioned.

The American people are still ignorant of the importance of a high grade of engineers as well as of executive talent in public administration. The commonly accepted theory among the masses that one man is about as good as another, and that anybody's place in public work can be easily filled, is altogether false. Even if many subordinate positions can in time be filled as well by new men as by those now in office, yet it takes a long time, and many errors, to train a man in a municipal water and electric light plant to do as good work as is now done by the better half of the old employees, — while in the higher lines of engineering and executive work the difference between mediocre ability and a high-grade man will often mean hundreds of thousands of dollars to a community. Fortunately our public bodies are learning wisdom in this matter.

In the management of a revenue-producing undertaking grave weaknesses often appear through failure to provide a proper system of charges and sufficient investment in the plant. Unless every department pays

for the water and light used and in turn is paid for the services it renders, and unless the earnings of the department are retained for improvements in the service and plant and reduction in the debts and rates of charge, the best results of municipal business and the highest benefits to the community cannot be secured.

Operating costs must be rigidly separated from construction costs, and adequate and scientific allowance must be made for depreciation. Where the revenues of the plant are adequate for all operating and depreciation charges and interest, the debt limit should not be applied to revenue-producing undertakings.

### *Remedies for Administrative Defects*

Remedies for the defects in administration mentioned above have already been considered. Emphasis may well be placed upon three prime requisites of large improvement, viz.: *public opinion,* publicity and audit, and the federal plan of concentrated responsibility.

In all these it is for you who are out of office to help those who are in office.

"Why don't they keep the streets a little cleaner?"
You ask with keen annoyance, not undue.
"Why don't they keep the parks a little greener?"
(Did you ever stop to think that "they" means you?)

"How long will they permit the graft and stealing?
Why don't they see that courts are clean and true?
Why will they wink at crooked public dealing?"
(Did you ever stop to think that "they" means you?)

In every community an organization should be formed, one of whose objects should be to get thoroughly acquainted with all the public business of the place, and through a thoroughly trained firm of accountants secure a proper audit of public receipts and expenditures. The result of this would be to assist good governments to become still better, and to take away some of the present deplorable opposition to any increase of taxation lest the money be wasted. Such publicity and audit will discover and prevent such waste, but it will also show the need of more expenditures in many directions.

Through the *federal* plan or in some other way, the people must be able to look to one man as responsible for good or bad management of each department of public work. It is all very well to have a board or small council to decide questions of appropriations, but for questions of administration, power must be concentrated in the hands of one man as in all our large, private undertakings. Only in this way can the government render to the community the best service of which it is capable. When a small board is elected, as at Galveston and Des Moines, and a few other places, of late, care must be taken that the essential feature of the Federal Plan is preserved, namely, that responsibility and authority over every particular piece of work should be lodged in some one man.

### *Public Service in Council and Legislature*

The defects of our legislative bodies are as conspicu-

ous as those of our administrative departments. The American city has been defined by Frederick C. Howe as an "economic happening" — an "urban aggregation." Even many of our states, especially in the West, are nothing but geographical accidents. There has been too little civic pride stimulating to service, in either state legislature, county board, or city council. For this and other reasons our legislative bodies, whether at Beacon Hill or at the grave of Lincoln, and whether in Quaker Philadelphia, with its native American stock, or in San Francisco, where the Orient and the Occident meet, have been considered conspicuous failures. Even worse are some of our county boards, although thus far little attention has been devoted to them. Public business evidently cannot be put on a proper foundation until the weakness at this point as well as in administration has been corrected.

We especially need two qualities which are pre-eminently lacking in the American people, — civic patriotism as distinct from readiness to die in battle, and moral courage. In other words, men of high ideals must be ready to serve the city and the state no matter how unpopular it may be to run for the city council or to stand up in the legislature or the chamber of commerce and board of trade and strike out manfully for the good of the community against selfish interests.

Home Rule, such as California has most conspicuously presented to us, is important. On the Pacific coast every city can hold its own constitutional convention, draft its own charter, and after it has been ratified by the

voters can put it into operation unless it violates fundamental principles of the state constitution. Nearly every city there has done this.

Had our cities existed in 1787, the makers of our National institutions would have reserved rights to the cities as well as to the states. It is for us to undertake this task. Only in this way can patriotism be fully developed and each city be allowed to grow according to its local needs. Until a state is ready for this, state legislation should be of a general character, such as the constitution of Ohio requires. The demoralizing effect of the situation in most states was well brought out by an eminent Chicago lawyer, Edwin Burritt Smith, in the March, 1902, *Atlantic Monthly* as follows:

"Charged as it (the state legislature) is with the power, even duty, constantly to intermeddle in the affairs of every municipality in matters purely local, its sessions have become log-rolling bees. Local measures clog its calendar. Each member seeks to press such of these as affect his locality. A gang of members from a single city, acting as the chattels of public service corporations, often coerce their fellows into action prejudicial to the public welfare. A measure which sacrifices the rights of the people of but a single community can rarely be expected to arouse to effective opposition the people of a great state. The good of a locality, often of many localities, is sacrified that the public business itself may proceed. Thus, the undemocratic attempt of the people of the state arbitrarily to govern the city results in making the government

of both city and state irresponsible, inefficient, corrupt."

The state should only deal with matters of state such as the most serious crimes, care of the insane, state highways, marriage and divorce, supervision of corporations created by the state, higher education, primaries and elections, and the raising of revenue for state purposes. The county and city and other local units should be allowed to determine the general framework of their local government, whether two chambers or one, whether the commission plan with government by boards or otherwise, and what shall be the local policies in the matter of ownership and operation of public utilities, local improvements, exemption of any class of property from taxes, sumptuary legislation, etc.

Direct primaries, that is, direct nomination by the people without the intervention of caucus and convention, joined to its necessary corollary of a shorter ballot must be secured. It is ridiculous to elect subordinate administrative officers, such as coroners, clerks, assessors, secretaries of state, sheriffs, etc. The people can never secure true democracy until an elector has before him at any one election the filling of only two or three offices. Few, even of college or business training, can learn who are the best candidates for more than that number of offices at any one time, yet we often have to fill twenty offices at a single ballot. The appointment of these should be left to the governor or president of the county board and the mayor.

The Recall, so successful in Los Angeles, is attracting

increasing attention as a means of securing the removal during the term of office of whoever does not voice the wishes of his constituents.

Direct legislation, or the right of veto by the people, is going to take the place of veto by our courts, mayors, and governors, while the people will also more and more reassert their right to initiate legislation in the city and state, as they still have it in the New England town meeting, and recently in some Western states.

The questioning of candidates during a campaign is also rapidly coming into favor as a further means of educating the voter as to the merits of candidates and issues. The various suggestions just made will help in securing better legislation and better oversight of public business, and whatever tends to that end it is our duty to advance.

### *"Big Interests" or "The System"*

Not only Lawson and Steffens, but President Roosevelt and others, have introduced into current discussion the above terms whose significance is now understood by all. The largest profit comes from the cornering of some special privilege, such as by the United States Steel Corporation in the case of the iron ore of Lake Superior and of the coke-producing fields of Pennsylvania, and by the syndicates owning our copper mines or the anthracite coal fields and pipe lines. Railroads may not only give special rates to favored shippers, but in competition with affiliated steamship lines may control all

the docks as at most of our lake ports. We are concerned, however, in this present discussion, with those special privileges secured from the state and city in the form of franchises, which are characterized by monopolistic features and large profit, and by dependence upon public grants. These public service corporations naturally fall into the hands of our more far-sighted and wealthy business men. This condition brings with it an almost irresistible temptation to secure weak if not corrupt government. The pocket nerve is enlisted in securing as weak regulation and as liberal grants as possible. It is very hard, in these circumstances, for our powerful citizens to become disinterested champions of strong and good government. One is forcibly reminded of Lincoln's story of the southern slave owner sitting in the shade of his favorite tree, pondering upon the weaknesses of slavery as he watches one of the slaves working in the heat of the sun. The master remarks to himself that it is very hard for him to admit that slavery is wrong when, in that case, he would have to go out in the sun and handle the hoe himself.

One of the leading lawyers of the United States once told the writer, "I would enjoy nothing better than leading a Reform movement in my city, but no man can afford to do it as it ought to be done in any city unless he is worth a half million dollars. For example: I am forced to seek accommodations at the banks, but they handle the stocks and bonds of the powerful companies holding franchises or controlling assessors and other city departments to such a degree that if I began a

really vigorous contest for the people's right, I probably could not secure banking favors at a single bank. With an expensive family and the fact staring me in the face that it is to these powerful and corrupting corporations that lawyers must resort for large fees, I confess that I am not heroic enough to take up the cudgels for reform."

### *Attacks on Special Privilege through Public Opinion, Taxation, Regulation, and Ownership*

The two most popular suggestions for meeting this problem of local monopoly, viz.: by taxation and by regulation, do not go to the core of the matter, but rather increase the temptation of those that are regulated or taxed to control their regulators and taxing authorities. Of course, unregulated and untaxed monopoly is out of the question, and the people of most places are not yet ready for anything more drastic. But the time is surely coming when further steps will be taken. Some think it will be in the line of municipal ownership, without operation, of road bed, mains, conduits and wires in the streets. The objections to this are, the difficulties of reconciling ownership in the hands of one party with operation in the hands of another, and the fact that monopoly profits have come less frequently from the construction than from the operation of such properties. By this I mean that it is much easier for a community to let the contract for the construction of mains or wires or street railway tracks at a reasonable profit to the contractor than it is to secure afterward from the would-

be operating companies reasonable bids for service. The English have tried this method of separation of ownership from operation, and have discarded it.

Others look with more hope toward management by a holding company in the interests of the public. This is the experiment entered upon in April, 1908, with the two hundred and fifty miles of street railways in Cleveland. If successful there, it is sure to spread to other cities.[1]

Some also believe that although the holding company may be the best intermediate stage for street railways, yet, at least in the case of water and lighting, many cities are ready for direct municipal operation. All but one of the twenty-one members of the National Civic Federation Commission appointed to investigate municipal ownership reported as a result of their extensive investigation in this country and Great Britain that every city should have the right to own and operate any public utilities. In this way only are private companies likely to take away in many places the temptation to the community to exercise this right to public operation.

Time does not permit the discussion of municipal operation of public utilities like street railways and lighting plants, but one cannot omit remarking that in two directions our so-called public utilities are proving a menace to proper public service, viz.: (1) As already indicated, the rich and powerful become interested in weak if not positively corrupt government at a time

[1] Various conditions prevented a fair trial of this plan, which was abandoned in Cleveland in October.

when, as never before, we need an efficient government in the line of sanitation, education, management of streets, parks, and public works, and in every direction of public activity. (2) Our public utilities so offend the public by large monopoly profits, without any adequate return from the franchises enjoyed, that both the employees and the public, especially in the case of street railways, are forming a habit of defrauding the company to an extent that would hardly be tolerated under public management.

With respect to functions already performed by the public it is interesting to note that the revenue-producing enterprises of a city are usually freer from politics and their managers have longer tenure of office than in the case of the non-revenue-producing enterprises such as the park, street, and charity departments. In almost any city the schools and fire and police departments are the best administered; then come the water and lighting departments, and at the bottom of the list come those with respect to which comparison with other cities are not easily made, and where there are no wealthy interests concerned to expose weakness and failure. Since there is no private capital invested in sewerage or street paving, bad management of those departments is not carefully watched by competing private ownership as in the case of lighting and street railways. Comparisons of unit costs are also more difficult in the former than in the latter class of work.

Those who are desirous of studying the conditions under which municipal ownership and operation can be

made highly successful should study the methods pursued in the municipal electric lighting plant of South Norwalk, Conn. Space forbids more than the passing references already made to four conditions of highly successful municipal operation of public utilities:

(*a*) A well-paid manager with full responsibility and holding his office during good behavior.

(*b*) Exclusion of political influence and personal favoritism.

(*c*) Separation of the finances of the undertaking from those of the rest of the city.

(*d*) Exemption from the debt limit of the necessary bond issues for revenue-producing utilities. Said bonds and interest thereon to be a charge upon the revenues of such undertakings.

### *The New Ethics of Social Service*

It is the part of a patriot, and of a Christian, to have all the share possible in the nomination and election of proper candidates, and in the support of those in office who are worthy of that support. The Puritan preachers were wont to tell their people to "practise dying." "Yes, but what is dying?" writes Professor Drummond. "It is going to a city." "And what is required of those who would go to a city?" "The practice of citizenship," — he replied, "the due employment of the unselfish talents, the development of public spirit, the payment of the full tax to the great brotherhood, the subordination of personal aims to the common

good." "And where are these to be learned?" "Here," he says, "in cities, here; there is no other way to learn them. There is no Heaven to those who have not learned them."

I might also quote the words of one who has thought and written much of value on this subject, Rev. Washington Gladden, of Columbus: "It is because you and I have been so busy with our mills and our mines and our merchandise, with our selfish schemes and our trivial enjoyments and our narrow professionalisms, with writing briefs and mixing pills, and expounding creeds and cramming paradigms, and have left our one main business of ruling the city in the fear of God to those who feared not God nor regarded man, that such a horror of great darkness rests now upon our cities."

Men who have powers of leadership are coming to this view. At the close of April, a ten-year contest between the city and the Cleveland Electric Railway Company, with regard to its franchises, came to an end and the property of the company was handed over by its president to a holding company, to be run almost in the same way as if directly owned by the city. To a large assemblage of citizens, when this transfer took place, Mayor Johnson, who had led the fight for the city during the last seven years, voiced the following sentiments, which many a citizen is beginning to feel; he said:

"We have been engaged in a work that was not really a contest between men. We were fighting for something — at least we felt we were — bigger than any

mere opinion or act of any individual. We have been struggling for something even beyond the accomplishment of three-cent fare, or municipal ownership, or the city's ownership of the streets, or any of those questions. We are trying, this people is trying, to set an example that others may follow, in self-government, in some plan by which the people living in great congested centers can govern themselves in a way that the greatest happiness will come to them. That is our big object. Some of us to-night think of this meeting as the end of a struggle; but, my friends, it is only a feeble beginning of other things that are yet to come. I don't regard it as an end, for the pathway to better things will be strewn by many battles and many struggles, but the truth will prevail in the end; and I am more confident now than ever in my life that the failure of democracy that is so often pointed out in our cities will be a thing that the next generation will point to as the success of democracy, for the hope of democracy at last is in our cities.

"It is under conditions that we find people gathered here, that the civilization of the future is going to be worked out; and for the little part that I have played, or the part of our immediate friends, I want to say that we are grateful to be a part of it. To the great public and this council, who have helped in this work, on behalf of the council, I say to the public that we are proud of being a part of it. But the real credit is neither due to the administration nor to the council; it is due to the right-minded people of this community, and that at last

is the measure of all the good that can come to any community.

"I am glad to take a humble part in it, and I would rather, my friends, leave to those little grandchildren of mine the feeling that this community, which has trusted me, will never have occasion to regret it, than to leave to them any other heritage on this earth."

The graduate of college or professional school, looking forward to a career, has hitherto hesitated about entering public service because of the uncertainty of tenure and lack of prizes in the form of salary, public reputation, and a sense of power over men and things. Conditions in this respect, are greatly improving; everywhere the public is beginning to appreciate the importance of the highest grade of professional ability and the necessity of paying well for it. Especially promising fields of public service lie in the way of expert work by engineers who, retaining their personal independence, help the city or company as their services are required. Following professional training, splendid preparation for such work is in the office and drafting rooms of the engineering departments of our large cities. There are cities to-day of this country that give their engineers and heads of departments as great independence of politics and discretion in the management of business as do private companies. The speaker can testify to this from personal knowledge. From a somewhat extensive experience, also with expert work in temporary engagements in many of our largest cities, during the last ten years, I am positive that public business will

prove far more attractive than it is commonly supposed, and is yearly attaining a higher level. There are few finer types of character in business life than that of some municipal engineers I have met who have put in twenty years or more in service for the community. The call is for a new religion, or a new ethics, — the service of all for all.

If the engineer is deterred from public service by the fact that he often cannot show as low labor cost for unit of work done as in private business, he may find satisfaction in other facts. He will find that he will be allowed to indulge his humanitarian impulses to the extent of giving some a chance for work even if they have reached the age of fifty, and have passed the deadline of private employment. In the continued labor of such men society is certainly interested.

Also, if he takes a broad view of the case, he will be glad to have his men, in public service, work but the eight hours now customary, rather than the nine or ten still usual in private work. He will also be encouraged by the fact that there will be no water in the stock or bonds issued for public work, and that if he is managing a public water or lighting or street railway plant, he will not be expected to capitalize the franchise, or the going value or payments to lobbyists and others for grants, or the rise in the value of the land of the plant since its purchase, or even the increased cost of duplication to-day of the street mains and conduits by virtue of the paving put down at city expense since the original laying of these mains and conduits.

A municipal engineer will only have to earn interest and depreciation charges on the actual original cost. If by reason of profits in excess of that amount the rate is reduced or new construction is paid for out of earnings, the capitalization, on which interest must be paid, is proportionately reduced. He will feel that with such advantages in his favor he can afford to treat his employees in a considerate manner, while insisting upon efficiency, and still accomplish as much for the taxpayer and consumer as in private business, unless handicapped to an extreme degree by bad political conditions. He will also feel that his success in the management of such public services as are committed to his care contributes to the success of democracy and increases faith in popular government, so that even if his name is not remembered, he will feel sure he is conferring a permanent benefit upon those who come after him and upon all who wish well for the success of popular government.

I have often wondered why the man who delights so much in dangerous football contests in college, for mere love of sport, does not take greater enjoyment after graduation, in the civic fights which are awaiting the willing contestant on every hand. Why is there not more of the spirit which animated a leader of the minority in the last Ohio Legislature? After some interesting and lively contests on the floor of the House, in the vain effort to secure consideration of certain bills, he remarked to me, "Of course, I could not expect to win, but I love the fight." Yet it is such a spirit that ultimately does win.

"You are beaten to earth? Well, well, what's that?
Come up with a smiling face.
It's nothing against you to fall down flat,
But to lie there — that's disgrace.
The harder you're thrown, why the higher you bounce,
Be proud of your blackened eye;
It isn't the fact that you're licked that counts,
It's how did you fight — and why?"

And truly it is exhilarating and grand to fight for good government. Before long it may even become popular. Will you not help make it so?

# CORPORATE AND OTHER TRUSTS

BY JAMES McKEEN

It is bringing coals to New Castle to bring to New Haven either knowledge or wisdom respecting corporate trusts. At the very outset of the popular agitation of the subject a score of years ago, no public utterances were more enlightening than those of President Hadley; and only a year ago, in the *North American Review,* in an article on the "Ethics of Corporate Manageagement," he has treated comprehensively the exact phase of the topic which has been assigned to me in this course of lectures. It is an interesting fact that within the year another distinguished college president, Dr. Woodrow Wilson, in his address on the Fourth of July at the Jamestown fair, pointed out certain fundamental fallacies in the legislative treatment of the trust problem. I shall have occasion later to refer to President Wilson's views. It is cause for congratulation that these two presidents of these two very old American colleges are among the leaders of thought upon one of the dominant subjects of the day. It is measurably an answer to the very common criticism that in modern progress our eastern colleges have been left lingering in the cloisters of classicism.

It might therefore in New Haven be safe to assume

that there is sufficient familiarity with the nature and development of what are called corporate trusts. I will, however, venture to make some preliminary statements as to what these corporate combinations are. Combinations in restraint of trade, and combinations leading to monopoly, are by no means new. They have figured frequently in legal history. Later on some references to this legal history and to the rules and remedies of the common law will become pertinent. I am now asking attention to the more recent and wide-spread combinations, which have come to be known as corporate trusts, or merely as the "Trusts." We must have in mind what a corporation is before considering these corporate combinations. There are many kinds of corporations, but they may be roughly divided into public, quasi-public, and private corporations. The two former are either governmental agents, such as municipal corporations; or those performing certain public services, such as railroads. In order to perform satisfactorily these public services the corporations often require and receive privileges and franchises of very great value. The private corporation usually has no other franchise than simply that of being a corporation. This has value because it enables a number of persons to carry on a business without individual liability beyond a prescribed limit, usually their respective shares in the assets of the corporation.

The word "trusts" is a misnomer. It seems to have been applied by reason of the fact that one of the many methods of combination has been for the majority of

the stockholders in several different corporations to transfer their stock to certain individuals who thus manage jointly all the corporations. These individuals have been called trustees, and they are in fact trustees for the transferring stockholders, to whom they become accountable for the proper share of profits in the conduct of the businesses combined. But the combination itself is in no proper sense a "trust." The name, however, has become too firmly fixed in popular and even in legislative language to be changed. And it has gradually been extended so as to include all kinds of combinations of capital. Very many of the popular attacks on the trusts are attacks upon corporations in general, and the word is often opprobriously applied to substantially all vested property rights. Another common method of corporate combination is by the system of leasing the property of one corporation by another. This has been the ordinary method of railway consolidations, and was in vogue long prior to the more modern agitation of the subject of trusts. These leases have been made for long periods, often with a right of renewal. The rental usually consists of a yearly sum sufficient to meet a guaranteed dividend on the stock of the leased road. Another and a very common method is by one corporation becoming the holder of a majority of stock of other corporations, and thereby gaining control of them without the intervention of any trustees. Still another method is in the ingenious device of a so-called "holding company." A corporation is formed for the sole business of holding stock of other corporations.

The holding company becomes the holder of a majority of the stock in other corporations, and thus controls all of them. Whoever holds a majority of the stock of the holding company controls that company, and thus controls all the subordinate companies. It will be seen that one person may control the entire aggregate property, while really owning much less than half of it. In my opinion this device and the practice of it have often furnished reasons for condemnation of such trusts. It is the favorite method of our Napoleons of finance. It is so important that I venture to make it more clear, by illustration. Suppose the case of a company with the capital of a million dollars, having ten thousand shares of one hundred dollars each, par value. The possession of five thousand and one shares assures control of the corporation. The holders of these five thousand and one shares organize a holding company, and transfer to it these five thousand and one shares. They of course in organizing the holding company become the owners of all the stock in that company. They can then sell or "unload" all but a controlling interest in the holding company. Supposing the holding company has been organized with a capital of one hundred thousand dollars, with one thousand shares at one hundred dollars a share par value. The real value may of course be very much greater, being determined by the value of the five thousand and one shares in the original corporation. It makes no difference what the real value is. The point is that the promoters of the scheme after selling four hundred and ninety-

nine shares in the holding company will still control that company. Instead of limiting the operations to the control of one business corporation, the holding company by like methods gains control of many other corporations. In the existing condition of the statute law in some of our states there is nothing to prevent the organizing of a holding company for the purpose of taking and holding a majority of the stock of a prior holding company, and so on, so that a man with a real capital of say ten thousand dollars may be in legal control of millions of dollars of corporate assets. It ought, however, to be said that in practice many of the holding companies have been resorted to merely for convenience of administration, and with no ulterior purpose of wrongful control.

In many instances the trusts have been evolved by a use of all these methods. The Standard Oil Company holds in a central control by all sorts of separate devices multitudes of originally independent corporations. The Steel Trust is itself largely a combination of other prior trusts.

The history of the Sugar Trust is interesting more especially as illustrating the helplessness of the state governments in attempts to check the growth of the trusts. For obvious reasons the refineries of sugar were on the seaboard, since most of the raw sugar must come from abroad, and that available from Louisiana is more cheaply transported by water than by land. The greatest of these refineries were in Williamsburg, the eastern district of Brooklyn, N. Y. Down to about

twenty years ago these were carried on in fierce competition with one another. Then they entered into a joint agreement to pool their profits and to divide them in agreed proportions. This was at once denounced as a conspiracy to enhance the price of a necessary of life. The state of New York through the Attorney General brought an action for the dissolution of the combination. And the Court of Appeals sustained a judgment of dissolution, holding that the agreement was in effect a partnership, and that corporations could not become partners. Finding their compact thus severed the owners of the refineries immediately formed a single corporation in New Jersey to which they conveyed all the property of their several refineries, in exchange for stock in the New Jersey corporation. The New Jersey corporation then complied with some technical requirements, to enable it to transact business in New York. And the business went on precisely as it had gone on under the dissolved trust agreement. I may have occasion later to refer to a subsequent experience of the Sugar Trust in the United States Courts.

This Sugar Trust next after the Standard Oil challenged wide public attention. Denunciation of it was frequent in the harangues that first aroused public sentiment against the trusts, which led to much of the early legislation on the subject. In spite, however, of this legislation, and in spite of the continued condemnation of trusts in the platforms of both political parties, they have gone on growing year by year until we now find in nearly every branch of industry some one great and

dominant corporation or combination of corporations controlling and monopolizing the production and sale.

Besides thus calling attention to the methods by which these combinations have been created, a sketch of the subject would be incomplete without more specific reference to legislation and to the decisions of the courts. As before mentioned, English legislation and jurisprudence abound in cases where the control of trade movements has been attempted. The English Parliament has repeatedly enacted statutes which now seem extremely whimsical. In the time of Edward the Third the plague caused such a diminution in the number of available domestic servants, and of employees generally, that there ensued a great rise in wages, and in prices of ordinary staples. In an effort to remedy the evil Parliament made it a misdemeanor for any one to refuse to work at the old rates, or for any huckster to refuse to sell at the old prices. These particular statutes proved to be wholly futile, and most of them were repealed. But at various crises similar statutes were passed. Nearly all legislative remedies for such evils proved to be worse than the disease. The same was found to be true of most of the legal remedies which the common law evolved. Many of these common law remedies survived the repeal of the statutes on the subject. Even Blackstone in his commentaries denounces forestalling and engrossing as still misdemeanors at the common law, although the prohibitory statutes on the subject had been repealed. Forestalling was the buying up of goods on their way to a market. Engrossing

was the buying of goods in the market, not for consumption by the purchaser, but for the purpose of holding them for a future sale. The prohibition of these practices by statute and by judicial decision was supposed to be in the interest of the public as enforcing lower prices. By slow degrees it has come to be comprehended that the public is made up of people that are both buyers and sellers. The man who is a buyer to-day is a seller to-morrow, and in the long run traffic will regulate itself better than courts and legislatures can regulate it. The popular uprising against the trusts led to statutes in most of the states prohibiting combinations in restraint of trade. In some of the states, notably in Illinois, the statutes have been enforced with a considerable degree of success. As a rule, however, the prosecutions have been ineffectual. The movement having taken on national proportions federal legislation was demanded. And under the interstate commerce provision of the constitution the famous Sherman anti-trust law was passed in 1890, which prohibits, under severe penalties, combinations in restraint of trade, where the trade restrained is interstate commerce. Time limits me to a very brief reference to the decisions under the statute. The Sugar Trust appears in one of the cases which went to the United States Supreme Court. That trust proceeded to absorb the Philadelphia refineries after the Sherman law was passed, and it was prosecuted for so doing. The Supreme Court, however, held that the mere acquisition of property in Pennsylvania in exchange for stock in a

New Jersey corporation, even though the property purchased was intended to be used for refining sugar, which sugar was to be transported for sale throughout the United States, was not interstate commerce. And that therefore the acquisition of the four refineries, even though the inevitable result would be to restrain trade, was not a prohibited act within the Sherman Law. This decision was also made upon the ground that a manufacturing monopoly within a state is not remediable by federal legislation even though it may be reasonably certain that the products of the factory are intended to be subject of interstate traffic. One of the most interesting of the many cases under the Sherman law is the Northern Securities case. Mr. J. J. Hill and his friends held a controlling interest in the Great Northern Railway Company, and Mr. J. P. Morgan and his friends a controlling interest in the Northern Pacific. These two roads were unquestionably engaged in interstate commerce, and were unquestionably competing lines. The two parties controlling the roads came to an agreement to abandon competition, and to combine for their mutual advantage. In order to carry out this agreement they formed a holding company under the laws of New Jersey, to which they transferred the controlling interest in both roads. The Government brought an action under the Sherman Law to vacate this transfer of stock to the holding company. The Court upheld the government's contention. It was argued that the railroads were not within the intent of the Sherman anti-trust law, they being already regu-

lated when interstate roads by the act creating the interstate commerce commission. The United States Supreme Court overruled this contention. By a vote of five to four the court held that the Sherman anti-trust law had been violated. Four of the justices expressed the opinion that the statute was violated since the combination was in restraint of interstate commerce. Mr. Justice Brewer expressed the opinion that the restraint must be unreasonable, but he held that on the facts shown the restraint was in this case unreasonable. The dissenting justices held in substance that the transfer of their stock by individuals to the New Jersey corporation was in this case not essentially different from that in the Sugar Trust case where the legality of such transfer had been sustained by the court. The effect of this famous decision was very much like that in the case of the New York dissolution of the Sugar Trust. The stock of the two companies was returned by the holding company to its owners, who, pursuant to a sort of gentleman's agreement, have since managed the two roads on a harmonious plan. It is found quite impossible for either legislatures or courts to compel two competitors to go on cutting each other's throats in the supposed interest of the public after the competitors discover that peace is more lucrative for both of them.

This practical failure of the United States Government in the Northern Securities case has served to stimulate the department of justice into a series of prosecutions which are now proceeding before the cir-

cuit courts in different parts of the country. Four of the great industrial combinations have been selected for prosecution: the Tobacco Trust, the Oil Trust, the Powder Trust, and the Harvester Trust. The more advanced of these cases is that against the Tobacco Trust. First the government took criminal proceedings, including the officers of the trust as defendants with the corporations. The curious result was that the jury acquitted the officers, while finding the corporations guilty. Next the government filed a bill in equity making parties defendant a great number of corporations and individuals that make up the Tobacco Trust. The testimony has been taken and a hearing has been had. The Court is asked to adjudge the trust illegal under the Sherman Law, and, if necessary, to appoint receivers to wind up the business. Since the assets exceed $400,000,000 it is easy to see that something like chaos will ensue if the government succeeds.

In view of the present political outlook the following extract from a speech delivered at Columbus, Ohio, August 19, 1907, by Mr. William H. Taft, is of interest. It was read by the counsel of the Tobacco Trust at the recent hearing of that case. It shows that at the time of its delivery Mr. Taft took a much more conservative view than is now taken by the Department of Justice. He seems to have shared the opinions of the dissenting justices in the Supreme Court cases. He said: —

"I conceive that it ('monopoly'), under the Sherman Law, is not sufficiently defined, by saying that it is the combination of a large part of the plants in the country

engaged in the manufacture of a particular product in one corporation. There must be something more than the mere union of capital and plants before the law is violated. There must be some use by the company of the comparatively great size of its capital and plant, and extent of its output, either to coerce persons to buy of it, rather than of a competitor, or to coerce those who would compete with it to give up their business. There must, in other words, be an element of duress in the conduct of its business toward the customers in the trade and its competitors before a mere aggregation of plants becomes an unlawful monopoly."

Added to these prosecutions of the industrial trusts, and relying on the Northern Securities decision, that the railroads are within the scope of the Sherman law, the government has followed its attack upon the Harriman control of the Union Pacific and the Southern Pacific with a like attack upon the New Haven road for its alliance with competing electric roads and for its proposed merger with the Boston and Maine. In view of President Mellen's position as almost the only railroad magnate who has openly defended the administration policy, Wall Street people now have their ears erect, listening for the cry from him, "et tu, Brute!"

Our purpose to-day is to inquire about the ethical rather than the economical aspects of the trusts. The comprehensive question suggested by the brief review of the subject is, "Have the public been right in the almost unanimous condemnation of the trusts, and in the persistent efforts which have been made to suppress

them?" It is, I think, worthy of note that the popular hostility to the trusts has manifestly been diminishing. This is explicable from various considerations, some of which do not touch the merits of the question. One is that as time has gone on a larger and larger proportion of the public are enlisted in the service of the trusts. And the great majority of those so enlisted find themselves better off than they were when in the service of smaller and competing concerns. This is true not only of the higher grades of employees, but of the common laborers. At first the trusts were denounced as the avowed enemies of labor; as conspiracies of capital against labor. Denunciations of this kind have not been justified by the facts. Neither has experience verified the prediction that prices of the products of the industries would be raised. On the whole a general conviction has become prevalent that the average consumer is served more cheaply than before. People are not divided into classes consisting of producers and consumers. The producer to-day is a consumer to-morrow; or more accurately, the average man all the while is a producer of some things and a consumer of others.

An interesting instance showing the change in public opinion was the course taken by the American Bar Association at its meeting at Hot Springs, Va., in the summer of 1903. The standing committee on commercial law brought in a report severely condemning the trusts and suggesting various drastic measures for their suppression. The report was drawn and presented by gentlemen of high professional standing.

Ten years earlier such a report would probably have been accepted with substantial unanimity, and its recommendations would have been adopted. But in 1903 it was received with outspoken and almost violent protestation, and was practically pigeon-holed.

The vehemence of the opposition to the trusts has been largely predicated upon the old notion that they are destructive of competition, and upon belief in the soundness of the economic proverb that "competition is the life of trade." The social reformers from Charles Kingsley to Edward Bellamy have been denouncing competition as the chief source of misery in the industrial classes. They have urged that while competition may be the life of trade it is death to the competitors. It used to be said that the proverb was very good in economics but indefensible in ethics. Some of the recent opponents of the trusts have been directly reversing this, declaring that while experience may have shown that the trusts are a good thing in economics they violate all principles of ethics!

It is true that a policy may be economically sound which is ethically unsound, but such cases are extremely rare. Poverty tests virtue, but it does not as a rule produce it. The trusts have prospered from the fact that while measurably destroying competition they have effected enormous savings in cost. These savings have not been savings for some people at the expense of others, but savings effected by stopping what had been absolute waste, and by stopping a misdirection of industrial energy. The ethical benefits of competition

have been to a considerable extent retained by the continuance of it within the trusts themselves. The best men and women in these great companies are, by a process of competitive selection, pushed up into controlling positions. In an enlightened mind a sense of fairness replaces the desire for selfish advantages incident to monopoly. The old notion that every trader will exact the last cent; that every carrier will charge the utmost that the traffic will bear, has been materially modified. Assuming, however, that the trusts are wholly governed by selfishness, it is as a rule an enlightened selfishness. In our system of law monopolies are subject to state regulation. The consciousness that this is a rule of law has been a check upon undue rapacity.

Another potent reason for the change in public sentiment is that since the hostility to the trusts extended itself so as to include all corporations, the thrifty people who have saved something, and have invested their savings, find that their investments are endangered. A large part of the investments of the savings banks are in bonds secured by mortgages upon the assets of the trusts. But the most extraordinary allies of the trusts, in increasing numbers, are the socialists. The socialists were at first the fiercest in their denunciations of what they conceived to be conspiracies of capital. But they now discover that the *pro tanto* destruction of competition has been in the line of their own favorite doctrine. And they say, since entire industries can be wisely conducted by vast central control, why not go the full length of putting all industries under the imme-

diate central control of the government itself, and thus realize the socialist ideal of the abolition of all private property and of all individual initiative? The labor unions also have been rudely awakened by such decisions of the courts as that in the recent Danbury Hat case, which held, that boycotting strikes are combinations in restraint of trade, equally with the combinations of capital, and that such strikes are equally condemned by the Sherman Law. This decision of course followed numerous common law precedents. But it has led to violent denunciation of the Supreme Court by the labor leaders, who wish all anti-trust legislation repealed unless their own unions shall be made exempt from its provisions.

It used to be thought that the regulating power of the legislatures over corporations, the so-called police power, was limited to, or at any rate should be advisedly employed only as to corporations which possessed some distinguishing public franchise; that is to say, to corporations which are known as public utility corporations; and should not be extended to those corporations which possessed no franchise except that of being a corporation, and which in their corporate capacity sought and exercised no business privileges other than those exercised by individuals. But the doctrine is now preached, and measurably prevails, that inasmuch as every corporation is a creature of legislation, every corporation is therefore subject to legislative control. Since a large part of the business of the country is now done by corporations, under the above theory paternalism has been

progressing by leaps and bounds. A striking illustration is furnished by the life insurance legislation. Although the life insurance business is important and although some of the life insurance companies are very large, they do not perform any governmental functions whatever. They are in no sense public utility corporations. They possess no public franchises. It has come about generally that only corporations do the insurance business. But I am unaware of any inherent reason, and in New York I am unaware of any statutory reason, why the business cannot be conducted by individuals. In England originally, and to a great extent still, the business of marine insurance is conducted by individual underwriters. The primitive way was for a ship owner to post at Lloyd's coffee house a description of his vessel and of the voyage she was about to undertake, and a statement of the insurance desired and of the premium offered. The underwriting merchants dropping in would write under this proposal the sum each would insure. And this became a contract binding each to payment of a proportionate part of a loss if any resulted. There is no inherent reason why Mr. Carnegie, for example, should not go into the business of insuring lives. He might have to satisfy the insurance officials of the state that he possesses means sufficient to warrant his ultimate fulfilment of his obligations. But on the ground that this business is conducted by corporations, the legislature assumes the power and duty of imposing all manner of restrictions. This course has apparent judicial sanction in an opinion

of the Court of Appeals of New York some years ago in the case of the People *vs.* Formosa. The legislature had passed a law making it a misdemeanor for an insurance agent to allow any part of his commission to a person taking out insurance. Formosa was prosecuted for violating this law. He defended on the ground that the commission became his own property, and he could not constitutionally be deprived of the right to do what he pleased with it. The Court held the law to be constitutional. Unfortunately, and quite unnecessarily, they gave among the reasons for sustaining the law, that life insurance companies being creations of the legislature, the legislature has complete control over them, and over the acts of their agents in the conduct of the business. Proceeding upon this theory, having this high judicial sanction, though in truth an *obiter dictum* of the Court, the New York legislature have passed a series of enactments, followed in many other states, prescribing in minute detail the methods of conducting the business; hampering its conduct with needless restrictions; imposing drastic penalties for trifling departures from the prescribed course of business, and in substance taking away from directors and officers of these corporations many of their former powers, and transferring these powers to state officials. If this paternalistic tendency goes on we will soon become subject to the bureaucratic conditions of many of the countries of continental Europe. No doubt the legislatures have the power to refuse to create private corporations, and the power to impose the terms and

conditions of their existence. And no doubt conditions should be imposed which will assure honest management and financial stability, but once created under such conditions private corporations should be left as free as individuals.

In this rapid review of the development of modern trusts it has perhaps become sufficiently obvious that these trusts, considered as corporate entities, are not morally censurable. Whether or not anything ethically objectionable exists in the working of the system depends upon the acts of individuals. Corporations have no souls, and the word criminal cannot be logically applied to corporate acts. True, a corporation is made to respond in damages in civil actions for the harm done wrongfully by its agents in the course of their employment. But this is widely different from punishment for criminal misconduct. And yet so furious has been the popular clamor in late years, that we find legislatures and courts treating the corporations themselves as misdemeanants, and punishing them by immense fines, the burden of which falls upon the innocent members of the corporation just as heavily as upon the guilty. It is in the clear elucidation of this fallacy that President Woodrow Wilson has rendered conspicuous service. The fallacy has been often pointed out by others, but by none so effectually as by him, in his Jamestown address to which I have referred. He points out that the particular things in corporate management which excite moral condemnation must be due to the misconduct of individuals. If there be conspiracy, con-

demned as a wrongful corporate conspiracy, the conspirators must be certain discoverable individuals. Hence the aim of remedial legislation and of remedial judicial action should be to detect and punish the persons who have acted wrongfully. It follows that in corporation management, as in most other kinds of business activity, there will rarely be cause for complaint if the conduct of the men responsible for what is done is in pursuance of the dictates of an enlightened conscience. Corporations, instead of being the natural agents of predatory wealth, are the natural instruments whereby a multitude of people of moderate means are enabled to combine, and thus to compete with men of great individual wealth whose selfish inclinations sometimes make them predatory. You, young gentlemen, as graduates of this splendid scientific school, will naturally seek and find employment in the great business corporations of the country. You may enter upon such service without hesitation and in the assurance that the trusts will not be harmful to you, and will cease to cause apprehension to the public, if you carry fearlessly into their service these principles of right conduct which you have here been individually taught.

# SYLLABI OF LECTURES

# LECTURE I

## "The Morals of Trade in the Making"

BY EDWARD D. PAGE

*Syllabus*

### Conditions of the discussion (page 1).

(1) A clear conception of the questions involved.
(2) Correct understanding of the terms involved.
(3) Freedom from prejudice or bias.

### Questions at issue (page 1).

(1) Foundations of general impressions of dishonesty in business.
(2) Are immoral practices common?
(3) What are their causes?
(4) The ethical principal and its guidance.

### Definitions (page 2).

Business — human activity with respect to the exchange of services, commodities or money.
Morality — the rule of right conduct commonly accepted by social sentiment expressed by its acknowledged leaders.
Ethics — the body of principle on which morality is based.
Honesty — conduct in business transactions in conformity with the *conventional* standards of duty set by social sentiment.
Honor — principles of action in conformity with the *highest* standards of duty.
Law — a rule of action established by recognized authority to enforce justice and to direct duty.
Society — the collective body of persons composing a community.

### The biases (pages 5–7).

(1) Professional.
(2) Of Journalism.
(3) Of anti-social corporate conduct.

Characteristics of morality (pages 8–10).

(1) Formed by social sentiment.
(2) Subject to change and progress.
(3) Its growth a phase of evolution.

Unequal evolution of economic and moral development (pages 10–13).

(1) Through the sudden development of modern business.
(2) Through popular absorption in money-getting.
(3) Through the inadequate development of the law.
(4) Opportunity afforded to the business anarchist.

Phases of the evolution of conduct-standards (pages 13–14).

(1) From honor.
(2) Through honesty.
(3) Finally ending with law.
(4) Devolution phase of law and its attendant moral confusion.

Differing degrees of intensity of moral obligation towards social classes (pages 14–15).

(1) The family — relation of friendship.
(2) The tribe — relation of acquaintance.
(3) The stranger — public relation.
    (*a*) Government a stranger.

Application of the phases of conduct standards to social classes (page 16).

(1) Of Honor toward the Family or friend.
(2) Of Honesty toward the Tribe — or acquaintance.
(3) Of Law to the Stranger — or public.

Effect of evolution of economic development (pages 16–17).

(1) In transmitting conduct-standards.
(2) In transferring social classes.

Business success (page 18).

(1) Not measured by acquisition of wealth.
(2) Equally dependent on the establishment of character.
(3) — and the development of ability.

Morality in the conduct of business (page 19).

(1) Immorality the result of unequal evolution.
(2) Standardization of business morality encouraged by economic development.
(*a*) Affording the opportunity for dishonest trading.

Golden rule the basic idea of duty (page 19).

Duty of educated men as leaders of society (pages 20–22).

(1) In developing moral principle by discussion.
(2) In reprobating anti-social conduct.
(3) Commendation of social service equally important.
(4) Extension of the ideals of Honor.
(5) — and of the brotherhood of mankind.

## LECTURE II

### "Production"

BY GEORGE W. ALGER

*Syllabus*

The producer and his employees (pages 25–28).

(1) Apparent simplicity of ethical principles involved.
(2) Elements of employer's duty.
(3) The nature and extent of individual responsibility of employer.
(4) The practical limitations of individual power of the just employer.

## Methods of promoting industrial justice (pages 29–39).

(1) Quickening the moral sense of the employer, directly and through public opinion.
(2) Organization of employees.
(3) Enactment of law; current objections to such law.
    (*a*) Socialism.
    (*b*) Cannot make men good by legislation.
    (*c*) Meddlesome legislation of ancient times a failure.
(4) The modern conception of the proper scope of industrial legislation. Disadvantages of industrial anarchy. Progress made towards greater industrial justice. Encouraging features of attitude of employers towards employees. Handicap on American employers through absence of law.
(5) Industrial accidents. European accidents burden upon industry. In America, burden upon crippled employee.

## The producer, the trade and the public (pages 39–40).

(1) Business trickery and the new law.
(2) Pure food bills.
(3) Patent medicines.
(4) Trade openings through burglar methods.
(5) Bribing commissions to purchaser, agents, and buyers. The growth of such practices and their causes.
(6) Development and abuse of trusteeship in commercial and financial life.
(7) Loose laws and the tempting opportunities for essentially criminal profits. Effect of bad example of magnates on clerks and employees and on business morals generally.
(8) Reasons for optimism.
    Increasing stability of business.
    Development of good-will.
    Good-will and advertising.
    The name of the house.
    Influence of high-class retailer on producer.

## LECTURE III

### "Competition"

BY HENRY HOLT

*Syllabus*

Questions of the capital-trusts and the labor-trusts at bottom questions of competition (page 47).

Excessive competition specially characteristic of America (pages 47–49).

Competition tends to vary with democracy (pages 47–49).

(1) Illustrated by comparing America with England.
(2) Attractions of wealth tempered there by counter attractions of politics, rank, "place" in state and church, and old and wide culture.
(3) Here, theoretic equality tempts to competition for actual equality, in the only generally-recognized chief good — wealth.
(4) Diffusion of education makes large numbers able to compete.
(5) And does not do as much as could be wished to temper the competition.

People disapprove competition in what they sell, and approve it in what they buy (page 49).

Nearly every industry, even the professions, combined against competition (pages 49–50).

Foolish overestimate of evils of competition and remedies for them (page 51).

SUMMARY OF EVOLUTION OF COMPETITION (pages 52–54).

(1) Competition ingrained in Nature.
(2) At first physical.
(3) Later intellectual.
(4) Later tempered by justice, mercy and sympathy — sometimes to excess.

(5) Also tempered by monopoly, natural and artificial — also to excess, requiring regulation.

Cessation of competition means cessation of industry (page 54).

SOME DETAILS OF FOREGOING SUMMARY

Advantages of competition, in brief (pages 54–59).

(1) Inherent even in the most altruistic industries.
(2) When suppressed in one way, apt to crop out in another.
(3) Illustrated in attempts to keep prices at one level — for example by the steel trust.
(4) Arguments for and against that attempt.
(5) Universality and irrepressibility of competition emphasize presumption of its usefulness.
(6) Stimulates effort, cheapness, quality, invention, advertising, drumming and facilities of travel; and eliminates ineffective management.

Disadvantages of excessive competition (pages 59–61).

(1) Sometimes eliminates effective management.
(2) Tends to depreciate quality, make prices wastefully low, and overdo advertising and drumming.
(3) Costs more to advertise and "drum" soap, for instance, and elementary school-books than articles themselves cost.
(4) Illustrated in book trade.

Competition, though incidental to prudent production and merchandizing, when extravagant becomes aggressive (pages 61–62).

(1) Especially when directed against an individual.
(2) Provokes self-defence, counter aggression, industrial war.
(3) Non-resistance-ideal ethics.
(4) Conflict between ideal and practical ethics.

Normal, inevitable, and incidental competition becomes abnormal, forced, and aggressive when it drives profits below average (pages 62–63).

(1) Profits to be estimated not in money alone, but in *all* satisfactions — honor, congeniality, etc.
(2) Tendency of satisfactions in all pursuits to become equal.
(3) Equality of fortunes, thus estimated, desirable.
(4) Only attainable through development of the individual.

Development of the individual attainable only through normal competition (page 63).

(1) Effects of excessive competition on character.
(2) Illustrations.
(3) Sometimes wiser and braver not to compete, as it is not to fight.

POSSIBILITY OF COOPERATION REPLACING COMPETITION (pages 63–68)

(1) Illustrated in the publishing business.
(2) Illustrated in the professional world.
(3) Illustrated in the trusts.

Difficulties regarding the trusts (pages 68–70).

(1) Those difficulties apt to yield to regulation.
(2) Crudity of our necessarily inexperienced attempts at regulation.
(3) Illustrated in the retail book trade.
(4) Illustrated in the pure-food law.
(5) Illustrated in the labor trust.

The non-competitive Utopia (pages 71–73).

(1) Dangers of speculating far beyond experience.
(2) Paradoxical character of all Utopias.
(3) A few rosy dreams of general wealth and leisure.
(4) Normal competition at least in the direction of their realization: and excessive competition, in the opposite direction.

# LECTURE IV

## "Credit and Banking"

BY A. BARTON HEPBURN

*Syllabus*

Unfortunate differentiation between private and public morals (page 74).

(1) As seen in public business.
(2) As seen in corporate affairs.

Principles and science of banking (pages 75–76).

(1) Custom governs banking principles.
(2) Principles change with change of custom.
(3) Ethical principles cannot change.
(4) Necessary characteristics for a banker.

Credit and character in commerce (pages 76–82).

(1) Commercial banking and its responsibilities.
    (*a*) Its confidential character.
    (*b*) Its proper risks.
(2) Fiduciary functions of a banker.
    (*a*) In his relations to the individual.
    (*b*) In his relations to the state.
(3) Concrete duties of commercial banking.

Other types of banking (pages 83–86).

(1) Savings banks.
(2) Trust companies.
(3) Banking houses.
    (*a*) Underwriting syndicates and promoters.
        (1) Origin of the syndicate system.
        (2) Promoters and the credit due to them.
        (3) Necessity for both syndicates and promoters.
(4) Mortgage banks.
(5) Dependence of all on commercial banks.
    (*a*) Importance to the latter of liquid assets.

## Unsound banking (pages 87–90).

(1) The impropriety of loans made to a bank's own officers.
(2) Impropriety of commercial banks investing in stocks.
(3) Commercial banks may buy bonds and participate in bond syndicates within due limits.
(4) What a bank may not do in underwriting syndicates its officers should not do.
    (*a*) The dangerous character of many promotions and syndicates, financially and morally.
(5) Failure of law to punish wrongful promotions.

## Morale of a bank's working force (pages 90–91).

(1) Efficiency dependent upon individual honesty.
(2) Character a controlling influence in selecting a working force.
(3) Character a final test in a bank's clientele.
(4) A paternal influence should be exercised over the clerical force.

## Instances of dereliction (pages 91–94).

(1) The wrong of settling with swindlers instead of prosecuting them.
(2) Need of public demand that men should be financially and criminally responsible for all statements in advertisements and circulars.

## The trusteeship of banking resources (pages 94–95).

(1) National banks are eminently public institutions.
(2) Fiduciary relations to the public are of the highest character and should be judged by the highest standards.
(3) Public should differentiate carefully between commercial banking and business enterprises conducted by so-called "bankers."

## Lessons of the crisis of 1907 (pages 95–101).

(1) Depositors should be able to withdraw their funds at any time in any form.
(2) Defects of our currency system.
(3) Inadequate currency laws demoralize credit and humiliate commerce.
(4) A comparison with Germany.
(5) Need of new currency legislation.

# LECTURE V

## "Public Service"

BY EDWARD W. BEMIS

*Syllabus*


Meaning and importance of public service (page 102).
Reasons for the growth of such service (page 104).
Prospects for further growth (page 105).
The ethical side of the problem (pages 105–108).
Administration — its growing importance and present weakness (pages 108–112).

(1) The Spoils System and inefficiency.
(2) Award of contracts.
(3) Inspection.
(4) Engineering.
(5) Financiering.

Remedies (pages 112–113).

(1) Public Opinion.
(2) Publicity and audit.
(3) The Federal Plan.

Public service in council and legislature (pages 113–117).

(1) Need of more courage and patriotism.
(2) Home rule.
(3) Direct primaries.
(4) Smaller bodies, more pay and one chamber.
(5) The recall.
(6) Direct legislation.
(7) Questioning of candidates.

Influence of the "Big Interests" or "The System" (pages 117–119).

Attacks on special privilege through public opinion, taxation, regulation and ownership (pages 119–122).

Conditions for highly successful municipal operation (page 122).

(1) A well-paid manager with full responsibility, and holding his office during good behavior.
(2) Exclusion of political influence and personal favoritism.
(3) Separation of the finances of the undertaking from those of the rest of the city.
(4) Exemption from the debt limit of the necessary bond issues for revenue-producing utilities. Said bonds and interest thereon to be a charge upon the revenues of such undertakings.

The new ethics of social service (pages 122–127).

The pleasures of public work (pages 127–128).

## LECTURE VI

### "Corporate and Other Trusts"

BY JAMES MCKEEN

*Syllabus*

Introduction — Academic interest in corporate ethics (page 129).

(1) President Hadley's article.
(2) Address by President Woodrow Wilson.

Defining trusts, corporations, combinations, franchises (pages 130–131).

(1) Three kinds of corporation.
(2) Nature of franchises.
(3) Origin of word "trust" as applied to combinations of capital.
(4) Use of word "trust" a misnomer. Now applied to all forms of centralized control.

Brief history and description of trusts as affected by legislation. The Sherman anti-trust law (pages 131–140).

(1) The Standard Oil trust.
(2) The Steel trust.
(3) The Sugar trust.
(4) The Northern Securities trust.
(5) The Tobacco trust.
(6) The Powder trust.
(7) The Harvester trust.

Public condemnation of trusts (pages 140–141).

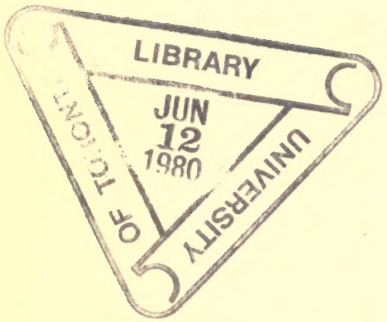
(1) Condemnation by labor interests.
(2) Condemnation by consumer.
(3) Condemnation in 1903 by committee of American Bar Association.
(4) Early legislative attempts to regulate prices.
    (*a*) Statutes in reign of Edward III.
    (*b*) Engrossing and forestalling.
    (*c*) Crimes at common law irrespective of statutes.

Change of public sentiment (pages 141–142).

(1) Repeal of early English statutes.
(2) People not divided into classes of producers and consumers.
(3) Economical advantages of combination appreciated.
(4) Socialists denounce competition.
(5) Labor interests opposed to Sherman anti-trust law, as applied to combinations of labor.
    (*a*) Danbury Hat Case.
(6) Competition between individuals within the trusts.

Tyrannical abuse of legislative power as regards corporations.

(1) Distinction between corporation and partnership or individual.
    (*a*) Legislative interference with insurance companies.
    (*b*) Legislation approximating paternalism.
(2) Corporations under criminal law. Aim should be to discover individual transgressors.
    (*a*) No danger from trusts if members and managers be controlled by high ethical standards.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Morals in modern business